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Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BURR, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, You have made of one blood all the people of the Earth. You are the God of our weary years and silent tears.

Lord, American history contains triumphant and tragic chapters. We read about freedom, justice, liberty, and equality, but also about slavery, injustice, violence, and racism. Thank You for the seasons in a nation's life that enable it to admit mistakes and seek to right wrongs.

Forgive the negligence and passivity of our lawmakers that nurtured thousands of documented and undocumented American lynchings. Forgive the failure to act that permitted more than 99 percent of the perpetrators of these sins to escape punishment.

In these challenging days, help our Senators to remember that all that is necessary for evil to thrive is for good people to do nothing. Transform our contrition into service that will today bring liberty to captives, sight to the blind, and comfort to the bruised.

Bless the descendants of those who were lynched. Remind them that You can transform dark yesterdays into bright tomorrows and make the crooked places straight. Give them the wisdom to see that in everything, You are working for the good of those who love You.

Lord, empower all of us to continue to strive for right, until justice rolls down like waters and righteousness like a mighty stream. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BURR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 13, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BURR, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURR thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will debate Executive Calendar No. 66, the nomination of Thomas Griffith to be a circuit judge for the DC Circuit. The vote on confirmation will be at 10 a.m. tomorrow. I am pleased we will be able to have a vote on this nomination, the sixth circuit court judge to be confirmed in the last couple of weeks.

Following the debate on the Griffith nomination, the Senate will then debate S. Res. 39, the antilynching resolution, under a 3-hour time agreement. As was announced last week, there will be a voice vote on the adoption of the resolution. We will have no recorded votes during today's session.

Tomorrow, following the vote on the Griffith nomination, the Senate will proceed to consideration of H.R. 6, the Energy bill. Chairman DOMENICI will be on the Senate floor ready to start the amendment process tomorrow morning. I encourage Senators to work with the bill managers so we can make significant progress on that important bill this week.

As a reminder, there will be no votes this Friday, June 17, to accommodate the Democratic retreat.

With that, Mr. President, I am going to turn to the Democratic leader, and then I will have a longer opening statement following his remarks.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

ORDER OF BUSINESS

Mr. REID. Mr. President, I have a statement of a few minutes. Does the Senator want me to do that now?

Mr. FRIST. Mr. President, let's proceed with the Democratic leader, and I will follow with my statement.

Mr. REID. I appreciate the courtesy of the distinguished majority leader. I do have something to do, so I appreciate that.

TRIBUTE TO FORMER SENATOR JAMES EXON

Mr. REID. Mr. President, I am terribly saddened by the death of Jim Exon. Those of us who had the opportunity to serve with him are so troubled by his death. He was an outstanding Senator. He was fair. He worked on both sides of the aisle. He protected the State of Nebraska and our country so well.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I have so many fond memories of him. His enthusiasm for the work he did here was contagious. His sense of humor was wonderful. Jim Exon loved Nebraska football. He cared about a lot of issues, but other than his family, Nebraska football came first. He is going to be buried in Lincoln, NE, on this Wednesday. He died, I believe it was Friday night. BEN NELSON called me Saturday morning. Jim Exon was certainly a mentor of BEN NELSON. We will all miss him very much.

I hope those who have some knowledge of Senator Exon will recognize we hope to take an airplane trip to Nebraska Wednesday afternoon to attend his funeral. He was a wonderful man. I miss him so much.

ANTILYNCHING LEGISLATION

Mr. REID. Mr. President, this past Friday, I was in Cincinnati. I had some business to conduct there, but my plane got in early, and I had some time on my hands. My staff said: Would you like to go to a new museum that opened in August of 2004? I said: Sure, I will be happy to. It is a museum that is dedicated to forcing us to remember what went on in the dark days of the history of this country dealing with slavery.

The museum is done so well. You walk in, and the first thing you see is this large facility—big, tall—and it is a facility that was used in the late 1700s, 1800s for holding slaves. The upper story—using that term loosely—was for the men and the bottom for the women. They still have the shackles there, the chains that were used to hold these people. They have the writing on the walls used to describe what these human beings were worth, how much money, and for what they could be used.

So it is very appropriate that I returned to Washington today since we are going to debate some legislation that is very pertinent.

In this body's two centuries of history, we have done many great things. We sent men to the Moon, created schools for our kids, fed the hungry, and lent a helping hand to struggling families. But today I rise to speak about one of this institution's great failures—its shameful refusal to enact antilynching legislation in the first half of the 20th century.

Today, one of the saddest chapters in our Chamber's history will come to a close when we apologize for the Senate's inaction. I join my colleagues in apologizing to the deceased victims of lynchings and their surviving loved ones. I pray this Chamber will never fail to see this injustice that was done. We must realize and understand what it was. It was an injustice.

While the exact number is impossible to determine, records indicate that since 1882—the best records we have—4,749 individuals have died from lynching, men and women, mostly men, and most of them by far African Americans. These Americans were killed, tortured, mutilated, and maimed with near impunity. Most were denied due process under the law, and their killers rarely—very rarely—faced consequences for their actions, as indicated by the prayer offered today by our Chaplain which indicated little less than 1 percent who saw some retribution in the courts. The Senate's inaction helped create a culture of acceptance toward these heinous crimes against humanity.

Photos from this book—''Without Sanctuary'' is the name of the book—a book of lynchings that occurred in America, and it is depicted in photographs—photographs that are so hard to accept—is the principal reason we are here today, this one book.

This book shows men, women, children donning their finest clothing and gleefully posing in front of deceased people who had been hanged and, prior to being hanged, often mutilated. Even worse, many photos were turned into postcards, until 1908, when the Senate at least amended U.S. Postal Service regulations to forbid the mailing of lynching photographs made into postcards. Think about that.

American history is rich with stories of heroes and heroines, as well as patriots, of patriotism. However, the lynching of so many Americans will always be a stain on our great democracy. Only after passage of time, only after growing pressure from civil rights organizations, only after over 200 antilynching bills, condemnation by foreign nations, petitions from seven U.S. Presidents, and outcries from the African-American press and some mainstream publications did the occurrence of this horrible act decline. But this book, published in 2000, is the real reason we are moving today.

It is my sincere hope that the relatives of the victims of these horrible acts will accept this body's sincere apology and take solace in the Senate finally recognizing its shortcomings.

It is also my sincere hope that the Senate does not stop with its apologies. There is much more to be done. We can honor the legacy of these victims by continuing to confront the challenges in civil rights before us in enacting legislation that will protect, for example, voting rights and improve the lives of so many Americans.

First, I encourage my colleagues on both sides of the aisle to stand strong in support of reauthorizing the Voting Rights Act.

Second, disparities between African Americans and Whites in health care and education are still too great. I encourage this body to support legislation that will improve health care among African Americans, improve educational resources, and provide opportunities for African Americans in many different avenues.

Finally, I ask the families of the victims of these terrible crimes to accept the Senate's apology, and I pray that my colleagues will act positively on upcoming legislation to honor the souls of those passed and that they may finally rest in peace.

Mr. President, again, I extend my appreciation to the majority leader in allowing me to go before him this afternoon.

The ACTING PRESIDENT pro tempore. The majority leader.

AFRICA

Mr. FRIST. Mr. President, this morning, President Bush, accompanied by the Presidents of five African States—Botswana, Ghana, Niger, Mozambique, and Namibia—announced the African Growth and Opportunity Act forum that will be held in July of this year in Senegal.

At that joint meeting and announcement of the Senegal meeting, I had the opportunity to sit down and talk with each of these African leaders, the Presidents of their respective countries, about the particular challenges their countries face and how the United States of America, working in partnership with them, can help.

We discussed our continuing efforts to help the nations of Africa fight disease and hunger and to develop sound, healthy, and accountable governance.

In our conversations, I underscored the need for continued political reform, for economic development, for investment in human capital, especially as we combat an issue the President talked a lot about earlier in the press announcement, and that is the tyranny of HIV/AIDS. We also discussed the President's plan to offer additional emergency aid to Africa at the upcoming G8 summit in July. This money is in addition to the $674 million the President announced last week during Prime Minister Tony Blair's visit to Washington.

Needless to say, the African Presidents were overwhelmed by these initiatives. They were impressed by the leadership of Prime Minister Blair and President Bush and by the generosity of the American people.

Meanwhile, on Saturday, in what Treasury Secretary John Snow called an achievement of historic proportions, the G8, led by the United States and the United Kingdom, agreed to cancel more than $40 billion in debt owed by 18 of the world's poorest countries, including 14 African nations.

Two hundred and eighty million African citizens will no longer labor under massive debtloads that have been crippling their ability to grow and prosper. This agreement wipes the slate clean. Their governments will see a combined savings of an estimated $1.5 billion a year. As we discussed this morning, their challenge now is to invest those savings wisely and effectively.

If this money is used wisely, the people of these countries will see better education, cleaner water, less disease, and live better and more productive lives. Countries such as Rwanda, Uganda, Zambia, Mozambique—all will be

better able to focus their resources on economic development, education, health, infrastructure, and all the fundamentals that we know help to build prosperity.

They will be able to once and for all break the loan-debt-forgiveness cycle that has undermined their ability to grow and to invest.

Saturday's agreement will help many of Africa's poorest countries get on their feet and make meaningful strides toward the future.

President Bush and the Republican-led Congress have been steadfast supporters of Africa's development. I personally have had the opportunity to visit the continent of Africa on eight separate occasions, both as majority leader and as part of medical mission work on that wonderful continent. We have consistently championed efforts to promote accountability, good governance, political reform, and economic growth. Overcoming the problems that afflict the continent is tough work, it is difficult work, it is challenging work, but we are committed to helping Africa realize its rich potential.

Instead of seeing only problems and obstacles, we seek solutions. Instead of offering a Band-Aid, we offered smart aid. We as a country have much to be proud of in terms of our contributions. One only need to look at the statistics. So far this fiscal year, the United States has provided the continent of Africa with $1.4 billion in humanitarian relief. President Bush has tripled America's contributions.

Today, nearly a quarter of every aid dollar to Africa comes from America, up from just 10 percent 4 short years ago. Yes, we really for the first time demand accountability from these investments. These aid dollars today are tied to economic and political reforms. Our goal is to help these countries root out corruption, to address human rights, to protect human rights, to promote the rule of law, and to build a stable, civil society, one that can meet the needs and demands of a growing and modern society.

Meanwhile, the African Growth and Opportunity Acceleration Act, also know known as AGOA, is already demonstrating its poverty fighting power. Last year, the Senate passed and the President signed the African Growth and Opportunity Acceleration Act. As a result, U.S. exports to sub-Saharan Africa have increased by 25 percent and America's imports from these participating countries are up 88 percent. Economic growth in sub-Saharan Africa is at an 8-year high.

Our goal is to break with the old approaches of the past where success was measured in dollars. Instead, we want real, measurable results, proof that the African people are benefiting from our efforts. And they are coming. I applaud the President for his strong and principled leadership. He understands that Africa can be and is a place of great hope and opportunity. He sees both the practical and the moral dimensions of America's leadership.

Every human being needs and deserves the fundamentals of life: food, shelter, water, safety. Countries that fail in any of these basic functions become dangerous places for their citizens and potential threats to America's security. It is in our mutual interest to promote peace and stability on the African Continent.

As a physician, I have had the opportunity to travel extensively throughout the continent. I have had the opportunity to perform surgery and operate in the oldest medical school on that continent in Uganda. I have had the opportunity to treat patients for war injuries, injuries from a civil war in southern Sudan, to treat patients with HIV/AIDS.

From that perspective, I was so proud when the President today was talking at the press conference with the Presidents of those countries about his HIV/AIDS initiative: $15 billion committed by the United States, by our U.S. Congress, to combat what I believe is the greatest moral, humanitarian, and public health challenge of our times. I am also participating in an effort to help expand health care and spread goodwill through that health care across the globe. I believe—and I have had that little window to be able to see directly—that through the good works of many talented women and men of compassion medicine can be not only an instrument of health but by the delivery of that medicine and by the delivery of that public health care can be a true currency for peace.

I have seen that real tangible intervention can help bridge the gaps and misunderstandings that so often divide people, that can divide societies. We see that phenomenon in Afghanistan and Iraq and we saw it in Southeast Asia in the aftermath of the terrible tsunami tragedy. Countless health care professionals from all over the world, both volunteers and government workers, rushed to that devastated region to offer assistance. Private companies, corporations, and nongovernment organizations offered services and supplies. The outpouring of support from all over the world, led in many ways by American efforts, was truly an extraordinary event, a moving testament to our shared humanity. That is why in April I introduced the Global Health Corps Act of 2005. America possesses a vast reservoir of talent, skills, knowledge, and compassion that can both help heal but also promote health, both literally and figuratively, promoting our global ties. This is just one of the many efforts we are making to help promote peace and well-being on the African Continent. We are also reaching out directly to individual countries to help them tackle their most pressing problems.

Today, I also had the opportunity to speak with the President of Namibia. Namibia is one of Africa's greatest success stories. We were just there on a congressional delegation about 2 years ago.

Just 15 years after attaining its independence from apartheid-led South Africa, Namibia has emerged as a multiparty, multiracial democracy with a stable market-based economy. Like many African countries, the greatest threat to Namibia's development and continued success is the spread of the virus of HIV/AIDS. Namibia is one of the countries most adversely affected by HIV/AIDS. Already, 22 percent of sexually active adults in Namibia are infected by HIV. AIDS accounts for half of the deaths among individuals between the ages of 15 and 19 in Namibia and for 75 percent of all hospitalizations in public facilities.

The continued spread of this disease will have a devastating impact on the Namibian people and their efforts to build on their already remarkable achievements. For this reason, it is critical to continue to fund the President's emergency plan for AIDS relief, or PEPFAR, to assist Namibia in their battle against this terrible disease.

PEPFAR funding for Namibia has increased from $23 million in 2004 to an estimated $36 million in 2005. The administration has requested $49 million for 2006, and I encourage my Senate colleagues to support this funding as the Namibian people continue their fight against HIV/AIDS.

Despite its openness and competitiveness, the Namibian economy still faces a number of challenges. Since 1990, the annual per capita GDP growth rate in Namibia has averaged just 1.6 percent. The African Growth and Opportunity Acceleration Act is helping to capitalize Namibia's economic potential. Already, AGOA is estimated to have created 9,000 new jobs in Namibia. In addition, Namibia's 2004 exports to the United States under AGOA are valued at $161 million.

These achievements I mention because they are a model for political and economic reform throughout the African Continent. Steady American support will enhance Namibia's ability to contribute to Africa's peace, security, and stability. The President has said America has a special calling to come to the aid of the African people and that ''we will do so with the compassion and generosity that has always defined the United States.''

I look forward to working with my colleagues in the Senate and with the President to continue helping the continent heal and grow. We care deeply about the future of Africa. With time and an unwavering commitment to progress, I believe that together we can help Africa and its people share in the blessings of peace and prosperity.

TRIBUTE TO JESSE R. NICHOLS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 168, which was submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 168) expressing gratitude and sincere respect for Jesse R. Nichols.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 168) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 168

Whereas, Jesse R. Nichols, Sr., faithfully served the United States Senate and the Committee on Finance as the Government Documents Clerk and Librarian from Nineteen Hundred Thirty-Seven through Nineteen Hundred Seventy-One; and

Whereas, Jesse R. Nichols, Sr., was born on June 14, 1909, in Clarksdale, Mississippi, and was the first African American Clerk employed by the United States Senate; and

Whereas, he carried out his duties in exemplary fashion, bringing credit to the Committee and to Congress; and

Whereas, Jesse Nichols worked effectively under the guidance of Democratic and Republican Chairmen, including Pat Harrison of Mississippi, Walter F. George of Georgia, Harry Flood Byrd of Virginia and Russell B. Long of Louisiana from the 75th Congress through the 91st Congress.

Whereas, the Committee on Finance will long remember the commitment, service and leadership of Jesse R. Nichols, Sr., as documented in an oral history posted on the Senate Historian's Web site; and

Now, therefore, be it *resolved*, that the United States Senate expresses its deep gratitude and sincere respect for Jesse R. Nichols for his unfailing service and his dedication to the United States Senate. The Senate hereby expresses condolences to the family due to the death of Jesse R. Nichols, Sr., on February 18, 2005.

Mr. FRIST. Mr. President, this resolution expresses our gratitude and respect to the family of Jesse Nichols. I will take just a couple of moments to comment on Jesse Nichols, who was the first African-American clerk to be employed by this body, the Senate.

Jesse Nichols was born on June 14, 1909, in Clarksdale, MS. In 1930, Jesse enrolled at Howard University where he hoped to study medicine, but his plans were derailed by the Depression, and he, as so many others, had to join the employment line.

After a stint working at a local delicatessen, Jesse secured a position at the Reconstruction Finance Corporation. Then in 1937, Senator Pat Harrison of Mississippi hired Jesse Nichols to join the Finance Committee as document clerk/librarian. He became responsible for the committee's immense collection of tax codes and hearings, witness statements, and other publications.

Over the days and the weeks ahead, Mr. Nichols became indispensable to the committee staff and the Senators who depended on his professionalism and accumulated knowledge. On his 30th anniversary in the Senate, Member after Member rose to pay tribute to Mr. Nichols. Senator Russell Long praised Mr. Nichols for his consummate professionalism, diligence, and devotion to this body. Delaware Senator John R. Williams testified that over his three decades of service Jesse Nichols ''earned the respect of those former giants of this Senate, each of whom was proud to call him a friend.''

Jesse Nichols was deeply respected by his colleagues and was dearly missed when he retired from the Senate in 1971. On February 18th of this year, Jesse died a few months short of his 96th birthday. Jesse Nichols lived a full and long life. On behalf of the Senate family, I recognize the contributions of Jesse Nichols to this venerable body. We are sincerely grateful for his service and dedication.

I yield the floor.

Mr. BAUCUS. Mr. President, today I rise to pay tribute to Jesse R. Nichols, Sr. Mr. Nichols, who passed away on February 15, was the first African-American clerk for the Senate Finance Committee and one of its longest serving staff members. He worked with the committee from 1937 to 1971.

Born in Clarksdale, MS, Mr. Nichols came to the Finance Committee at a time early in the building of its staff. Back then, there were few, if any, African-Americans on staff with the Senate. At Finance, there were just three staff members with the committee and no standing subcommittees. Today, there are 70 staff members and 5 standing subcommittees.

During his more than 30 years with the committee, he created the committee's archival system and became our resident historian. He also contributed to the history of the Senate as a whole. In 1994, he generously participated in an extensive oral history for the Senate Historical Office. In it, he describes some of his most memorable moments during his long tenure. Mr. Nichols rubbed elbows with some of the most important leaders of the day—but he was excluded from eating in the Capitol's restaurant and cafeterias because of his race.

On the day that Mr. Nichols celebrated his 30th anniversary with the committee, several Senators paid him homage on the Capitol floor. They noted that Mr. Nichols outranked every member of the Finance Committee in terms of length of service. Senator Long in particular called Mr. Nichols a ''senior member'' of the committee and ''one of God's best people.'' When Mr. Nichols finally retired in 1971, the committee had to hire two people to carry on his extensive work.

I salute Mr. Nichols for his long and trusted service to the Senate and send my heartfelt condolences to the Nichols family.

Mr. GRASSLEY. Mr. President, today I want to pay tribute to the life of Jesse Nichols, Sr., who passed away on February 22, 2005. Jesse R. Nichols, Sr., faithfully served the U.S. Senate for over 30 years. He was the first African American Clerk employed by the U.S. Senate.

Jesse Nichols was born on June 14, 1909, in Clarksdale, MS. He began his service when the late Pat Harrison of Mississippi was the distinguished Chairman of the Finance Committee—the committee I am now privileged to chair.

Jesse was appointed as a messenger for the Finance Committee in 1936, and was elevated about 6 months later to assistant clerk of the Committee. At that time, the staff of the Finance Committee numbered only three.

In 1967, on the occasion of his thirtieth anniversary on the Senate staff, several members of the Finance Committee, led by Delaware Republican John J. Williams, rose in the Senate chamber to pay tribute to Jesse Nichols who had ''earned the respect of those former giants of the Senate, each of whom was proud to call him a friend.''

Senator Williams added that:

It is refreshing to meet a man who throughout the years has served the Senate and his country with but one thought in mind, and that is, to do his job to the best of his ability, always remembering that as a Government employee he is a servant of the people.

Senate Republican Leader Everett Dirksen added his endorsement, noting that:

Thirty years of faithful and devoted service certainly deserves to be taken account of in the proceedings of this body.

An oral history interview conducted by the Senate Historical Office from March 26 to April 12, 1994, is available on the Senate Web site. The history documents Jesse's employment by the Committee on Finance from the 75th Congress through the 91st Congress.

He worked under the guidance of Democratic and Republican Chairmen, including Walter F. George of Georgia, I Senator Eugene Millikin of Colorado, Harry Flood Byrd of Virginia and Russell B. Long of Louisiana.

Jesse Nichols' service was faithful, exemplary and noteworthy. He served not only the Finance Committee with class and grace, but also the Senate as a whole during that critical period in American history. I join my colleagues in recognizing Mr. Nichols' life and am grateful to his service to our country.

S. RES. 168

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Whereas Jesse R. Nichols, Sr., was born on June 14, 1909, in Clarksdale, Mississippi, and was the first African American Clerk employed by the United States Senate;

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of Mississippi, Walter F. George of Georgia, Harry Flood Byrd of Virginia and Russell B. Long of Louisiana from the 75th Congress through the 91st Congress; and

Whereas the Committee on Finance will long remember the commitment, service and leadership of Jesse R. Nichols, Sr., as documented in an oral history posted on the Senate Historian's website: Now, therefore, be it

Resolved, That the United States Senate expresses its deep gratitude and sincere respect for Jesse R. Nichols for his unfailing service and his dedication to the United States Senate. The Senate hereby expresses condolences to the family due to the death of Jesse R. Nichols, Sr., on February 18, 2005.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF THOMAS B. GRIFFITH TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and proceed to the consideration of Calendar No. 66, which the clerk will report.

The assistant legislative clerk read the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under ''Morning Business.'')

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, is the Griffith nomination before the Senate?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HATCH. Mr. President, I rise in support of the nomination of Thomas B. Griffith to serve as a judge on the United States Court of Appeals for the District of Columbia Circuit.

Because Tom Griffith served as Senate legal counsel from 1995 to 1999, many Members of this body are very familiar with his character, judgment, and record. For the benefit of those new members of this body and those members of the public who are not familiar with Tom Griffith, I want to spend the next few minutes detailing why his education, experience, and expertise make him an excellent nominee for this extremely important Federal court.

As I will set forth, Tom has broad support on both sides of the aisle. In the far too often partisan debate over judicial nominations that has occurred over the last few years, it is refreshing to have before us a nominee whose past record of achievement has resulted in so many current supporters who are firmly convinced that his future service on the bench will be successful.

One of the many reasons why I am particularly proud to support Tom Griffith is because he is a constituent of mine. Mr. Griffith serves as assistant to the president and general counsel of Brigham Young University.

As might be expected, Tom has many supporters at BYU. Here is what associate dean and Professor Constance Lundberg at the J. Reuben Clark School of Law has to say about the nominee:

> [Tom] is also a lawyer of unexcelled ability. He understands the differences between law and policy and has a deep understanding of the powers and prerogatives of each of the three branches of government. He is immensely fair and compassionate. The laws and Constitution of the United States could not be in better hands.

Tom also has his supporters among law school faculty off the BYU campus. For example, please listen to what Harvard Law Professor William Stuntz has said about the qualifications of Tom Griffith:

> I know a great many of talented men and women in America's legal profession; I've taught more than three thousand students at three top law schools, and I have friends scattered across the country in various kinds of law practice and in academics. I do not know anyone whom I would rather see on the federal bench than Tom Griffith. If he is confirmed, he will not just be a good judge. He'll be a great one.

That is certainly strong praise and, as I remember law school, getting praise from law professors is never easy unless you truly earn it.

In order to become the lawyer he is today, Tom received a solid education.

Back in 1978, Mr. Griffith received his Bachelor's degree from BYU. I am proud to say that we both graduated from BYU. I am also proud to tell you that Tom graduated summa cum laude. For those of us who are proud to call Brigham Young University our alma mater, I want to note that BYU is our Nation's largest private university and is recognized by many as one of the finest institutions of higher learning anywhere in the world.

Tom Griffith was the valedictorian of the BYU College of Humanities. He was chosen as the recipient of the prestigious Edward S. Hinckley Scholarship.

Mr. Griffith pursued his legal studies at the University of Virginia School of Law. Once again, he distinguished himself by being selected as a member of the law review at the University of Virginia. This is an honor that very few law students achieve.

Upon graduation from law school in 1985, Tom commenced his legal career as an associate in the Charlotte, NC, law firm of Robinson, Bradshaw and Hinson. During this time, Mr. Griffith was engaged in corporate, commercial, securities and employment litigation.

In late 1989 Tom Griffith joined the well-known and highly regarded Washington, DC, law firm of Wiley, Rein and Fielding, first as an associate. Tom specialized and excelled in complex environmental insurance litigation and regulatory investigations and was made a partner in the firm.

Between March, 1995 and March, 1999, Tom Griffith served as Senate legal counsel. This is a highly demanding job as the Senate legal counsel advises the Senate on all legal matters related to the Senate including Senate investigations, the work of Senate committees, and defending acts of Congress and Senate resolutions.

During his time as Senate legal counsel, Tom faced the many challenges of advising the Senate during the impeachment of President Clinton. If there was ever a circumstance to test the temperament of a lawyer, his ability to ascertain what the law is and what prudence dictates, and to provide objective legal advice in a fair and even-handed manner in a highly charged atmosphere, surely it was the unique circumstances of the impeachment trial. By all accounts, Tom Griffith came through in flying colors.

After the impeachment trial, Tom rejoined the firm of Wiley, Rein and Fielding for about one year before taking his current position in Utah as the general counsel of Brigham Young University.

As you can tell from this thumb nail sketch of Tom Griffith's career, he is an achiever. He has had a terrific education and has done very well at very demanding schools. He has also distinguished himself in the practice of law with one of the great law firms in this country, as Senate legal counsel, and in his current capacity as assistant to the president and general counsel at BYU.

Many have relied upon Tom Griffith for sound legal advice. That is because he is an excellent lawyer who provides excellent advice.

Despite the claims on his time made by the various legal positions Mr. Griffith has held, he still found the time to take on a number of voluntary assignments that demonstrate a commitment to serving those in need. For example, between 1991 and 1995 Mr. Griffith spent several hundred hours of his own time attempting to overturn the sentence of a death row inmate. Ultimately, the strategy devised by Mr. Griffith was successful in obtaining a pardon by then-Governor, now-Senator GEORGE ALLEN on the eve of the scheduled execution.

Tom has volunteered to represent disadvantaged public school students in disciplinary proceedings and has helped operate soup kitchens or people in need.

I would also like to make my colleagues aware of Tom's interest in, and commitment to, the emerging democracies in Central Europe. For the last

10 years, Tom has worked on the American Bar Association's Central Eurasian Law Initiative, serving on the ABA Advisory Board in this area. In this capacity, he has helped train judges and lawyers in Croatia, Serbia, the Czech Republic and Russia. He has been very active in helping establish a regional judicial training center in Prague. Let me just mention what some of his peers in the international legal community have said about Tom Griffith.

Here is what David Tolbert, the Deputy Registrar at the International Criminal Tribunal for the former Yugoslavia has said about Tom Griffith:

> Mr. Griffith is without question one of the best professionals with whom I have worked, given not only his capability as a lawyer but his integrity as a person. He also shows an open-minded approach to legal and other issues, and I have discussed many issues with him, a number of which we come to at somewhat different angles, and his intellectual honesty and integrity are outstanding.

That is indeed high praise. Mr. Tolbert is not alone among those in the international legal community who have come to know Tom and speak highly about him.

Mark Ellis, the executive director of the International Bar Association has made the following comments about Tom.

> The duty of a judge is to administer justice according to the law, without fear or favor, and without regard to the wishes or policy of the governing majority. Tom Griffith will fervently adhere to this principle. As is natural in a democracy, people will not always agree with Tom's decisions from the bench. I will certainly not always agree with those decisions. However, there will never be a question as to the veracity behind them.

I think that Mr. Tolbert and Mr. Ellis have made some important observations about Tom Griffith's competence and character.

In addition to his international work in helping to bring democratic institutions into formerly totalitarian regimes, Mr. Griffith has also served as a Commissioner on the Secretary of Education's Commission on Opportunity in Athletics. There are many difficult issues that universities across the country face in operating balanced athletic programs vis a vis male and female athletes in a era of constrained budgets. Tom has been a constructive voice in this important dialogue and sometimes thankless task. I prepared to speak at further length on his activities in this area but will not do so at this point. I will tell you that—not surprising for a father of five daughters—Tom has worked, consistent with the law, to bring opportunities for women athletes.

In addition to these activities, between 1996 and 2002 Tom Griffith served as vice chairman of the Federalism and Separation of Powers Practice Group of the Federalist Society. As a long time friend and supporter of the Federalist Society and its leader, Leonard Leo, I am pleased that Tom has provide his thinking and energy to the important areas of federalism and separation of powers.

As befitting a man of his experience, Mr. Griffith has also given many speeches in educational settings that cover a wide variety of legal topics including, The Rule of Law; The Line Item Veto Act; Disciplining Congress: The Taxing and Spending Powers, and, of course, The Impeachment of President Clinton.

In addition, Tom has authored several scholarly articles that have appeared in legal periodicals including his law review note, Beyond Process: A Substantive Rationale for the Bill of Attainder Clause and his more recent 2003 article in the Utah Bar Journal entitled, Lawyers and the Rule of Law.

The record is clear that Tom Griffith is an accomplished lawyer and an outstanding member of the bar. Despite the many highlights of academic achievements and professional accomplishments that I have just reviewed, I have no doubt that Tom would describe his greatest joy in life as his 28-year marriage to his wife, Susan, and the six children that their marriage has produced. Tom and Susan have five daughters—Chelsea, Megan, Erin, Victoria and Tanye and a son, Robert. Tom and Susan were recently made grandparents for the first time. They have a month old grandson, William Sawyer Watts. His parents are Chelsea and Eric Watts. I would be remiss if I did not mention that Tom's only other married child, Megan, is married to Ryan Clegg.

I think it is both important and appropriate to note that Tom has pent considerable time in positions of leadership in his church.

Now that I have spent a few minutes describing the basic facts out Tom Griffith's education and experience, I will spend the next few minutes making some qualitative judgments about him.

I am all for Tom Griffith. Everyone knows that. I first became familiar with Tom through his work in the Senate. As Senate legal counsel, he impressed many in this body for being hard-working, fair-minded, and honest. I am aware of no one who believes that he carried out his responsibilities as Senate legal counsel in a partisan manner.

And let's face it, the role of Senate legal counsel is not an easy job. We all know about the challenges and difficulties associated with the impeachment trial. But let me just list a few other significant legal matters that Mr. Griffith handled while in the Senate.

These include representing the Senate in various lawsuits relate to the Line Item Veto Act; advising the Senate of its institutional interests in the Senate campaign finance investigations held by the Committee on Government Affairs with respect to fund raising of the 1996 elections; representing the Senate in the investigations related to the contested 1996 Louisiana Senate election; and, many matters, including a Senate subpoena directed to the White House, related to the Senate Whitewater investigation.

You can see that the inherently controversial issues that the Senate legal counsel is compelled to confront could easily end up in making some particular Senators less than pleased from time to time. Add to that the mother of all contentious issues—a Senate impeachment trial—and I hope you can see why a person like Tom Griffith, who came through the impeachment trial with bipartisan respect, might be exactly the type of individual we need on the D.C. Circuit.

But do not take it just from me. I will spend the next few minutes to tell you what judgments that others—leading Republicans and Democrats alike—have made about Tom Griffith.

Let me start by reciting from the testimony that my colleague from Utah, Senator BENNETT, gave to the Judiciary Committee last fall. Here is what Senator BENNETT said:

> . . . Tom Griffith really needs no introduction to the Senate because he served as Legal Counsel to the Senate in what is perhaps the Senate's most difficult experience, at least the most difficult experience in the time that I have been here. Tom Griffith was Counsel to the Senate when we went through the historic impeachment . . . trial of President Clinton—only the second time in our Republic's history where the Senate has had this kind of challenge. I was involved in that, as were members of this Committee.
>
> The primary burden of dealing with that challenge fell upon the two leaders, Senator Lott as Majority Leader and Senator Daschle as the Minority Leader. I watched with interest and then admiration as Tom Griffith negotiated through that particular mine field, giving very sound, calm, carefully researched and reasoned advice to both sides. He was not a partisan counsel. From my observation, Senator Daschle was as reliant upon Tom Griffith's legal expertise as was Senator Lott.
>
> If I can take us back to the memory of that experience, virtually everyone around us in Washington predicted a melt-down. The comment was made that this case was toxic. It had soiled the House of Representatives and it was going to soil the United States Senate.
>
> . . . the Senate came out of that experience with its reputation enhanced rather than soiled, and to no small degree that fact . . . is due to Tom Griffith.
>
> There are very few nominees for the Federal bench who have had the experience of going through that kind of fire, who have had their judicial temperament tested in that kind of an atmosphere. Tom Griffith therefore comes before this Committee unique in terms of his experience and with the Senate as a whole, and indeed in the national spotlight.

I think that there is much wisdom in Senator BENNETT's reflections. I understand that Senator BENNETT will come to the floor this afternoon and make some remarks about Mr. Griffith. I hope my colleagues will listen carefully to my colleague and friend from Utah.

Unlike the vast majority of the nominees the Senate reviews, judicial and executive branch, many of us have had the chance to know Tom Griffith personally and to see how he acts

under extremely stressful, and sometimes extremely partisan, circumstances. He has more than passed the test. Tom Griffith has been in the crucible of major political and legal events. He performed well under the sometimes scorching heat of the situation and helped all of us get through that unique test.

But do not take it from me and Senator BENNETT alone, after all we are both Republicans and Mr. Griffith is our constituent. Here is what some leading Democrats have said about Tom Griffith.

Let me start with Senator DODD, our colleague from Connecticut. Upon Mr. Griffith's departure from the Senate, Senator DODD made the following remarks on the Senate floor:

> Mr. DODD. As an original cosponsor of the resolution, I rise today to add my remarks in support of, and in gratitude to, our former Senate legal counsel, Mr. Tom Griffith.
>
> It is always with mixed emotions that I speak on occasions such as this. While I am glad for Tom and wish him well in his return to private practice, I know that the Senate will miss the wise counsel and dedication he demonstrated during his nearly 4 years of service to this body.
>
> The ancient Chinese had a curse in which they wished their victim a life ''in interesting times''. For better or for worse, Tom lived such a life as Senate legal counsel. From my place on the Rules Committee—first as a member and now as Ranking Member—I had a unique perspective on the legal counsel's efforts to deal with numerous ''interesting'' issues presenting novel, rare, and in some cases, historic issues, including implementation of the Congressional Accountability Act, resolution of the Louisiana election challenge, and, of course, the recent impeachment trial. Speaking for myself—and, I suspect, most of my colleagues—I must say that Tom handled those difficult responsibilities with great confidence and skill.
>
> A more contemporary observer—and one of Connecticut's most famous residents— Mark Twain, once suggested: ''Always do right—this will gratify some and astonish the rest.'' During his tenure as legal counsel, Tom exemplified this philosophy, impressing all who knew him with his knowledge of the law and never succumbing to the temptation to bend the law to partisan ends. All of us who serve here in the Senate know the importance of the rule of law; but let us never forget that it is individuals like Mr. Thomas Griffith whose calling it is to put that ideal into practice.
>
> Once again, I wish to express my gratitude to Tom for his years of service, and I ask that my colleagues join me in supporting this resolution.

To me, these comments by Senator DODD speak volumes about the precise qualities we should all want in our judiciary.

As an old litigator myself, I can tell you that it is possible for layers arguing against each other, fighting tooth and nail against each other every day, to come out of litigation with mutual respect. Of course it is possible for adversarial advocates to come out of trial with less than admirable feelings towards one another.

Whatever your views on the merits of President Clinton's impeachment, I think that most everyone would agree that David Kendall and Lanny Breuer were zealous advocates in the President's defense.

So was Chuck Ruff. We all miss him. He was a good man and a great lawyer.

As you would imagine, during the course of the impeachment trial both David Kendall and Lanny Breuer got to know Tom Griffith. They came to respect him.

I am prepared to debate more extensively on some concerns that have been raised and may be raised today about Mr. Griffith's bar membership. I might add that the ABA has looked into this matter very carefully and gave Mr. Griffith a qualified rating. And you would think that if the ABA was satisfied on a matter relating to bar membership, that this should put the matter to rest.

Nevertheless, some questions have been raised. This issue has been fully explored and, I think, put to rest in two Judiciary Committee hearings on Tom Griffith. In any event, it has been the subject of a few stories in the press. I might add that one of the newspapers that carried this story, The Washington Post, ultimately editorialized in support of the nomination of Mr. Griffith.

I thought it noteworthy that two leading Democratic lawyers, David Kendall and Lanny Breuer undertook a public act by writing a letter to the editor to the Washington Post that stated as follows:

> For years Tom has been a leader in the bar and has shown dedication to its principles. The Federal bench needs judges like Tom, an excellent lawyer supported across the political spectrum.

Their letter goes on to say: ''We support Tom and believe he has the intellect and judgment to be an excellent judge. ''

I want to emphasize that these are President Clinton's lawyers talking about a Republican judicial nominee—Tom Griffith—whom they got to know during the Senate impeachment trial.

But they are hardly alone. Many other leading Democratic lawyers hold Tom Griffith in high esteem. These include Seth Waxman, solicitor general of the United States in the Clinton Administration. Here is what Mr. Waxman wrote to The Washington Post in the aftermath of its story on Mr. Griffith's bar status:

> I have known Tom since he was Senate legal counsel and I was Solicitor General, and I have the highest regard for his integrity . . . For my own part, I would stake most everything on his word alone. Litigants would be in good hands with a person of Tom Griffith's character as their judge.

That is high praise from one of the most skilled Supreme Court practitioners in this country. And once again, I point out that it is coming from a leading Democratic lawyer in support of one of President Bush's judicial nominees.

Support for Tom Griffith is equally vigorous on the part of leading Republican lawyers. Despite having been recently exposed as not being Deep Throat—after 30 years of speculation to the contrary—Fred Fielding, former White House Counsel to President Reagan, is still properly regarded as one of the best lawyers in Washington, DC, or anywhere else for that matter. Tom Griffith was his law partner so they know each other well.

Mr. Fielding, the former chairman of the American Bar Association's Standing Committee on the Federal Judiciary, has described Mr. Griffith as ''a very special individual and a man possessed of the highest integrity. He is a fine professional who demands of himself the very best of his intellect and energies.''

Speaking of former White House Counsels supportive of Tom Griffith, I would like to point out that Abner Mikva, a leading Democratic attorney, firmly supports Tom Griffith. Abner Mikva was a Democratic Congressman, and a Democratic appointee to the very court to which Mr. Griffith has been nominated to serve. Here is what he says about Mr. Griffith:

> Tom Griffith will be a very good judge. I have worked with him indirectly while he was counsel to the Senate and more directly as a major supporter to the . . . Central and Eastern European Law Institute of the American Bar Association. Tom was an active member of CEELI's advisory board, and he and I participated in many prospects and missions on behalf of CEELI.
>
> I have always found Tom to be diligent, thoughtful and of the greatest integrity. I think that the bar admission problems that have been raised about him do not reflect on his integrity. Rather, they appear to be understandable mistakes and negligence which cannot be raised to the level of ethical behavior. Tom has a good temperament for the bench, is moderate in his views and worthy of confirmation.

I think that Judge Mikva, a leading Democrat got it exactly right. Tom is a man of high integrity and competence. Problems stemming from failure to timely pay bar dues—a problem that besets some 3,000 members of the District of Columbia Bar Association each and every year and was immediately corrected by Mr. Griffith when brought to his attention—should not be artificially magnified. As Judge Mikva has commented on this issue: ''. . . this is a whole lot of nothing.''

And that assessment—a whole lot of nothing—is from the former chief judge of the DC Circuit, former White House counsel to President Clinton and former Congressman. If during this debate somebody tries to make something out of nothing with respect to the bar membership issue, I just want you to remember what Ab Mikva has concluded because he has a lot of experience in making these type of judgments from his time in Congress, at the White House, and on the bench.

Unfortunately—and with apologies to George Gershwin's Porgy and Bess—sometimes in judicial confirmations, nothing's plenty for some.

Those who have known and worked with Tom Griffith praise him. Another name partner of Mr. Griffith's old firm, Richard Wiley, has this to say about

him: ''Tom is an outstanding lawyer, with keen judgment, congenial temperament and impeccable personal integrity. He would bring great expertise and fair-minded impartiality to the bench and, in my judgment, would be a considerable credit to the DC Circuit and the Federal Judiciary as a whole.''

While Dick Wiley is a leading Republican attorney, not all of the attorneys at the firm he founded are Republicans. Here is what Tom Brunner of Wiley, Rein and Fielding has to say about Tom Griffith.

I offer these views from the perspective of a life-long and politically active Democrat. While Tom and I don't always agree on partisan political issues, I have the highest regard for his integrity and for his open-mindedness. As a judge, he would approach each case without prejudice, with a willingness to be educated and considerations he did not previously understand and a rock-solid commitment to fairness.

Last year I received a letter from 13 leading Democratic attorneys, including former Representative Jim Slattery, Bill Idle, President of the ABA in 1993–1994, and Sandy D'Alemberte, President of the ABA in 1991–1992. Here is what this distinguished group of Democratic lawyers had to say about Tom Griffith:

Each of us has had extensive contact with Tom and believes him to be extremely well qualified for service on the D.C. Circuit. For year Tom has been a leader in the bar and has shown dedication to its principles. The Federal bench needs people like him, one of the best lawyers the bar has to offer. We urge the Senate to confirm his nomination.

I must say that I heartily join them in urging the Senate to confirm Tom Griffith to the DC Circuit.

Over the past several years, we have heard many criticize President Bush for nominating individuals that my friends across the aisle find too divisive. As I have just shown, in nominating Tom Griffith, President Bush has made a conscious attempt to submit the name of an individual that has broad bipartisan support.

I just hope that my colleagues across the aisle will recognize the simple fact that President Bush is offering a nominee that he hopes, and I hope and expect, will gain a broad bipartisan vote of support.

I was pleased that despite some concern expressed by some Democrats on the Judiciary Committee that Tom Griffith received the support of many Committee Democrats, including the support of both Senators DURBIN and SCHUMER, both of whom who would acknowledge the fact that they are sometimes among the toughest critics of President Bush's judicial nominees.

The minority leader, Senator REID, has expressed a willingness to bring the Griffith nomination up for a vote and I hope that he supports Mr. Griffith.

Tom Griffith is an extraordinarily qualified nominee. He has the education, experience, judgment, and character to make a fine judge. Those of you who worked with him while he was Senate legal counsel know this to be the case. I ask that those of you who are new to this body or did not work with Mr. Griffith while he was here ask the opinion of those of us who were in the Senate and worked closely with him.

I am old-fashioned enough to believe in the notion of the Senate family. Tom Griffith is part of the Senate family. I, and many of my Senate colleagues, have reputations for helping deserving members of the Senate family because we recognize that some of the most public-spirited individuals in our country choose to work in the Congress, including some of our most energetic, smart and idealistic young people.

I also recognize that given the extraordinary capabilities of staff members, such as Tom Griffith, it is only fitting and natural for Congressional staff to move into positions of great responsibility within the judicial and executive branches of government. So I always try to help along and give the benefit of the doubt to Congressional staffers who are nominated to serve by the President—any President, Republican or Democrat.

I take great pride in lobbying on behalf of a former Democratic Chief Counsel of the Judiciary Committee, Stephen Breyer, to serve on both the 1st Circuit Court of Appeals and the Supreme Court.

I would hope that my colleagues will continue to join me in this approach of recognizing those who have done well for the American public in serving the Senate.

I urge my colleagues to act to send Tom Griffith off to the D.C. Circuit with the type of broad bipartisan confirmation vote that reflects the broad bipartisan support that his nomination has engendered.

For me, this is an easy vote. I know Tom and his record. I hope that after all of my colleagues have considered his qualifications, it will be an easy vote for them as well. Tom Griffith is a good man and has what it takes in terms of education, intelligence, judgment and character, to become a great judge.

I urge my colleagues to vote in favor of Tom Griffith to serve on the D.C. Court Circuit.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. Under the previous order, there was 4 hours of debate evenly divided.

Mr. LEAHY. I thank the Chair. I will take such time as I may need.

Mr. LEAHY, Mr. President, I oppose the nomination of Thomas Griffith to the U.S. Court of Appeals for the DC Circuit. Mr. Griffith's decision to practice law without a license for a good part of his career should be disqualifying. Mr. Griffith has foregone at least 10 opportunities to take the bar in Utah, and has continued to refuse during the pendency of his nomination. In this regard he appears to think he is above the law. That is not the kind of person who should be entrusted with a lifetime appointment to a Federal court and, least of all, to such an important court as the DC Circuit, which is entrusted with protecting the rights of all Americans. This is the wrong nomination for this court and I will vote against it.

The DC Circuit is an especially important court in our Nation's judicial system for its broad caseload covering issues as varied as reviews of Federal regulation on the environment, workplace safety, telecommunications, consumer protection, and other critical Federal statutory and constitutional rights. The White House has rejected all Democratic efforts to work together on consensus nominees for this court and refused to engage in consultation. That is too bad and totally unnecessary. This is another in a series of inappropriate nominations this President has made to this court. Last week, Senate Republicans voted in lockstep to confirm Janice Rogers Brown to this court. The takeover of this court is now complete. Mr. Griffith is the third nominee from President Bush to be considered by the Senate. If confirmed the eleven judges on the court will include a majority of seven judges appointed by Republican Presidents.

At Mr. Griffith's hearing last March, I noted that unlike the many anonymous Republican holds and pocket filibusters that kept more than 60 of President Clinton's moderate and qualified judicial nominees from moving forward, the concerns about Mr. Griffith were no secret. Unlike the Republicans' pocket filibusters of Allen Snyder and Elena Kagan, who were each denied consideration and an up-or-down vote when nominated to the DC Circuit, Mr. Griffith knows full well that I think he has not honored the rule of law by his practicing law in Utah for five years without ever bothering to fulfill his obligation to become a member of the Utah Bar.

He has testified that he has obtained a Utah driver's license and pays Utah State taxes, but he is not a member of the bar despite admitting practicing law there since 2000. According to his answers to my questions, he has taken no steps to fulfill the requirements for practicing law in Utah by taking the Utah bar exam and becoming a member of the Utah Bar. He was also derelict in his duty toward the DC Bar, and less than forthcoming with us on questions related to his repeated failures to maintain his D.C. Bar membership and his failures to pay his annual dues on time not just once, not twice, but in 1996, 1997, 1998, 1999, 2000 and 2001. He was twice suspended for his failures, including one suspension that lasted for three years.

As was reported last summer in The Washington Post, and confirmed through committee investigation, Mr. Griffith has spent the last five years

practicing law in Utah as the General Counsel to Brigham Young University. In all that time he has not been licensed to practice law in Utah, nor has he followed through on any serious effort to become licensed. He has hidden behind a curtain of shifting explanations, thrown up smokescreens of letters from various personal friends and political allies, and refused to acknowledge what we all know to be true: Mr. Griffith should have taken the bar.

Mr. Griffith has so far foregone ten opportunities to take the Utah bar exam while applying for and maintaining his position as general counsel at BYU. This conscious and continuous disregard of basic legal obligations is not consistent with the respect for law we should demand of lifetime appointments to the Federal courts. Neither has Mr. Griffith yet satisfactorily explained why he obstinately refuses to take the Utah bar.

This is not Mr. Griffith's first or only bar problem. He was suspended for failing to pay his DC Bar dues and then misled this committee on the facts of that suspension as well as other late payments. Contrary to his misleading testimony at his hearing, it seems that the only year Mr. Griffith actually paid his DC bar dues on time, after coming to the Senate in 1995, was in 1995. Two suspensions from the practice of law in two years, three late or non-existent payments in four years, and an attempt to mischaracterize this embarrassing record are hardly just an single ''administrative oversight'' unless by that Mr. Griffith means to indicate that his single admitted error is that he does not comply with the law.

What may be more disturbing than Mr. Griffith's failure to pay his DC dues, is his lack of concern about the implications of having practiced law in DC without proper licensure. When I asked him if he had notified his clients or law firm from the period he was suspended, he brushed me off, telling me that his membership in good standing was reinstated once he got around to paying his unpaid dues. Of course, that ignored my question, which was about the ramifications of having been suspended for two separate periods over the course of years while he continued to practice. Clients and partners should have been notified and courts should have been informed.

The Department of Justice apparently agrees that suspension for failure to pay bar dues is a serious matter. Recent newspaper reports disclosed that the Department's Office of Professional Responsibility takes such a matter seriously enough to have opened an investigation into the case of a longtime career attorney there who, like Mr. Griffith, was suspended from the DC bar because he did not pay his dues. Unlike Mr. Griffith's case, the Department is concerned enough about such a suspension that they filed notices with the courts in every case this attorney worked on during the period of his suspension, notifying them that he was not authorized to practice at the time. Practicing law without a license is a serious matter.

The facts surrounding Mr. Griffith's nonexistent membership in the Utah bar are even more troubling. He began his service as assistant to the president of the university and general counsel of BYU in 2000. At that time he was not a member of the Utah bar, he was suspended from membership in the bar of the District of Columbia, and he was an inactive member of the North Carolina bar. Mr. Griffith's own testimony is that for the last five years, as part of his responsibilities as BYU general counsel, he has been practicing law in Utah.

So, what made Mr. Griffith think he could practice law without being a member of the Utah bar? Mr. Griffith testified that he relied on an in-house counsel exception that does not exist in Utah statutes and is not recognized by the Utah Supreme Court, as Mr. Griffith was forced to concede. It was a most convenient and self-serving excuse. There is no such ''general counsel'' exception in Utah and there never has been. He could not point to any Utah statute or Utah Supreme Court pronouncement allowing this behavior—because it does not exist as a matter of law. Moreover, his predecessor at BYU and the general counsels of the other universities in Utah are all members of the Utah bar.

Mr. Griffith has never been able to identify who at the Utah bar he claims advised him that he did not need to join the bar. This fundamental refusal to abide by the law is all the more troubling by Mr. Griffith's obstinate behavior in refusing to take the bar in order to cure his failure. This is not complicated: Get licensed. Indeed, during the course of committee consideration he admitted that when he asked a second-year law student to research the matter she came back to him and advised that he should take the bar. Yet here we are, with the Senate being urged to confirm someone to a lifetime appointment as a Federal judge on a court with jurisdiction over important cases that can have nationwide impact and that nominee has adamantly refused to follow legal requirements in his own legal practice.

The general counsel of the Utah bar, Katherine Fox, wrote to Mr. Griffith on May 14, 2003, telling him she was ''surprised'' he thought there was a general counsel exception, and explained that there was no way under his circumstances to waive into the Utah bar without taking the bar exam. This response from a career lawyer in the Utah bar made before political pressure was ratcheted up to defend a Republican nominee seems pretty straightforward to me. In plain, simple to understand words, Ms. Fox instructed Mr. Griffith to take the bar examination at the earliest opportunity. That was more than two years ago. Mr. Griffith refused to comply.

In an interpretation worthy of the Queen of Hearts from Alice in Wonderland, Mr. Griffith and his supporters have defied logic and reason by turning Ms. Fox's letter upside down in an attempt to characterize it as something other than it is and to condone his conduct. If he will make this self-serving interpretation in this case, what makes anyone think that he will not be the same sort of ends-oriented judge that will twist facts and law in cases he rules on from the Federal bench? Ms. Fox's recommendation that he ''closely associate'' himself with a Utah lawyer until he takes the bar and becomes a member of the bar was not offered as an indefinite safe harbor that permits him to violate Utah law. Ms. Fox's letter is being misused and mischaracterized as an invitation to flout the law. This is the kind of reinterpretation in one's own interest that characterizes judicial activism of the worst sort when employed by a judge.

There are more reasons for serious concern about Mr. Griffith's fitness to be a member of the DC Circuit Court. His judgment is brought into serious question by his views on Title IX of our civil rights laws. This charter of fundamental fairness has been the engine for overcoming discrimination against women in education and the growth of women's athletics. I urge all Senators to think about our daughters and granddaughters, the pride we felt when the U.S. women's soccer team began winning gold medals and World Cups, the joy they see in young women with the opportunity to play basketball and ski and compete and grow.

With the recent reinterpretation of title IX being imposed by this administration in ways that will no doubt be challenged through the courts, we may now understand why the Bush administration sees the appointment of Mr. Griffith to the DC Circuit Court as such a priority. His narrow views on title IX were unveiled during his efforts as a member of the Bush administration Secretary of Education's Commission on Opportunity in Athletics, to constrict the impact of title IX. Does anyone doubt that he would rule that the Bush administration's revision through regulations should be upheld?

The United States Supreme Court recently decided that whistleblowers are protected in the title IX context. That was a close, 5–4 decision, in which Justice O'Connor wrote for the majority. Just the other day the Justices refused to hear a challenge to an appellate court decision that essentially found that title IX could not be blamed for cutbacks in men's athletic programs. These recent legal developments regarding Title IX serve to remind us how important each of these lifetime appointments to the Federal courts is. In light of the record on this nomination, I am not prepared to take a chance on it and will vote against it.

I also note that during the Clinton presidency, Senate Republicans ensured that the 11th and 12th judgeships

on the DC Circuit were not filled. They had argued since 1995 that the caseload of the DC Circuit did not justify a full complement on the court. Indeed at a 1995 hearing, they called Judge Laurence H. Silberman of the circuit to so testify. Republicans have argued for years this circuit's caseload per judge is one of the lightest in the country. In a May 9, 2000, letter to Senator KYL, Judge Silberman argued that the DC Circuit's caseload continued to decline from 1995 to 2000 and to oppose confirmation of additional Clinton nominees.

In fact, the DC Circuit caseload has continued to decline and in 2004 was less than it was in 1999, when Senate Republicans refused to consider two highly qualified and moderate nominations by President Clinton to vacancies on the circuit. With the confirmation of Janice Rogers Brown to that court, there are now ten confirmed, active judges for the DC Circuit, which is what Republicans maintained was appropriate since 1999.

With all the self-righteous talk from the other side of the aisle about their new-found principle that every judicial nominee is entitled to an up or down vote, the facts are that in 1999 and 2000 the nomination of Elena Kagan to the DC Circuit was pocket filibustered by those same Senate Republicans. Ms. Kagan is now dean of the Harvard Law School. Qualified? Yes. Was she given consideration in a Republican run Senate? Not on your life. Likewise the nomination of Allen Snyder to a vacancy on the DC Circuit was never voted upon. Mr. Snyder is a former clerk to Chief Justice Rehnquist and was a highly respected partner in a prominent DC law firm, the same law firm from which President Bush nominated John Roberts to the same court. Senate Republicans pocket filibustered President Clinton's nomination of Mr. Snyder but unanimously supported the confirmation of Mr. Roberts. Senate Republicans played a cruel joke on Mr. Snyder when they allowed him a hearing but would never list him for a vote before the Judiciary Committee or the Senate.

In September 2002, Senator SESSIONS explained that Clinton nominees Elena Kagan and Allen Snyder were blocked: ''Because the circuit had a caseload about one-fourth the average caseload per judge. And the chief judge of the circuit said 10 judges is enough, instead of 12. And I actually thought that was too many. I thought ten was too many.''

Well, the DC Circuit's caseload per judge is lower now than it was during the Clinton administration. Let us see whether the votes of Republican Senators this time will be based on the same rationale they gave to pocket filibuster Clinton nominees.

Last week we witnessed a Republican Senator, who had voted against the confirmation of a Clinton judicial recess appointment and had explained his vote as opposition to recess appointments, reverse himself to vote for a Bush judicial recess appointment. Last week we witnessed dozens of Republican Senators, who had voted against confirmation of Ronnie White of Missouri in 1999 and explained their vote as compelled by the opposition of his home-state Senators, reverse themselves and vote in favor of Justice Janice Rogers Brown and ignore the strong, consistent and well founded opposition of her two home-state Senators.

Tomorrow we will see whether the many Republican Senators who delayed and opposed the confirmation of Judge Merrick Garland in 1996 and 1997 and who pocket filibustered the nominations of Allen Snyder and Elena Kagan in 1999 and 2000 will vote against a Bush nominee to the DC Circuit because the caseload of the circuit does not justify more judges. Tomorrow we will see if many Republican Senators again retreat from their earlier rationale because today a Republican controls the White House.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for as much time as I may consume.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCENTRATION OF MEDIA BROADCASTING

Mr. DORGAN. Mr. President, a couple of things have happened in the last several days that I want to visit. First, I wish to talk for a moment about public broadcasting and, secondly, to talk about a Supreme Court decision that was announced this morning here in Washington, DC, and the relationship between the two.

First, I will talk about public broadcasting. I confess I am a big supporter, a big fan of public broadcasting. I think they are an organization that provides an independent view of a range of issues to the American people. The Corporation for Public Broadcasting, public television, and public radio, I think, provide a significant service to this country.

In a time when there is this enormous concentration in the media, more and more television stations are being bought up by fewer and fewer companies—one company owns over 1,200 radio stations in this country—the Federal Communications Commission writes new rules that get overturned by the courts, frankly, that say you can even buy up more of these properties. In fact, the rules the Federal Communications Commission developed some while ago said it is going to be all right in one of America's major cities for one company to own three television stations, eight radio stations, the dominant newspaper, and the cable company. That is unbelievable. Are they dead from the neck up? What possibly could they be thinking?

Fortunately for us, the Federal courts struck down the new rules and, fortunately for us, this morning the Supreme Court decided that the court had justification in striking down these new ownership rules.

Again, I do not think it makes any sense to have a handful of people in this country determining what the American people see, hear, and read, and that is exactly what is happening.

That brings me back to public broadcasting. It is interesting that at a time of this concentration in the media—one company owning a lot of radio stations, 1,200 of them, one company and several companies owning a lot of television stations—at a time when there is not much room for discord and voices, which, incidentally, I think strengthens a democracy.

There is this old saying when everyone is thinking the same thing, nobody is thinking very much. This democracy of ours, this system of self-government, this country that is full of self-expression is strengthened, in my judgment, by an exchange of views of people who have different views. But that, regrettably, is seen somehow as being disloyal these days.

Oh, I know, someone in the Dixie Chicks said something that was unpopular about the President, and then we had tractors driving over the CDs from the Dixie Chicks and big rallies to burn their music. Just before the last election, one television consortium decided they were going to run a clearly partisan film designed to attack only one Presidential candidate and not allow time for the opposing view. This was a television consortium that nearly every single night was doing editorials against one of the Presidential candidates.

In Minot, ND, late one evening, a train ran the tracks and some cars of anhydrous ammonia spilled a plume over that community of nearly 50,000 people, and that deadly cloud of anhydrous ammonia enveloped that community at about 2 o'clock in the morning. There is some disagreement about the events of that night, but reports are that the telephone calls went to the local radio station, and were not answered. All the radio stations in Minot are owned by one company.

What is happening in these broadcast facilities these days is they are running a broadcast out of a board someplace 1,000 miles away, someone who is homogenizing the music to run it

through the local station. There is no local broadcasting in many cases. What you have is a company 1,000 miles or 1,500 miles away deciding they are going to run some homogenized music through the sound board. You do not even need people around to do that.

The Minot, ND, story is one that has been well repeated. I know there is some dispute about a number of the details, but the fact is, there should not be any dispute about what is happening with this concentration. We now have people who sit in a basement, perhaps 20, 30 miles from here—one of the examples I heard was over in Baltimore, a guy sitting in a basement studio saying: It is sunny in Salt Lake City. What a beautiful morning to wake up in Salt Lake City. He was not in Salt Lake City. He was in a basement in Baltimore.

He was reading off the Internet, pretending he was broadcasting to the local folks over the local station in Salt Lake City. They have a term for that. They also have a term for the kind of homogenized television news that is put out by people who are not in your region to make it look like it is locally produced news.

We have this massive concentration in the media, which I think is awful, the FCC promoted rules that says we will let them concentrate even further. As I said, in a major city, under the FCC rule, one would be able to own eight radio stations, three television stations, the cable company, and buy the dominant newspaper all at the same time. I think it was one of the single most complete cave-ins to the biggest corporate interests in this country I have ever seen: The public interest be damned.

The FCC had three-quarters of a million people write to it to say: Do not do this. It did not matter to them. They just did it. Now they have been enjoined by a court. The Supreme Court says they cannot continue and so now they have to start over. Perhaps when they start over they will understand they also have a responsibility to work for the public interest, which brings me to public television.

A couple of things are kicking around about public television. Last week, I believe on Thursday or Friday, the appropriations subcommittee in the House decided to cut funding for public broadcasting. The cut in funding probably meets the interests of some who would like to abolish it. I do not know. I know we had one of our colleagues some years ago decide to get in a big fight with Big Bird and, frankly, Big Bird won. Public broadcasting is widely supported in this country.

In recent years, we have heard a drumbeat by people who say public broadcasting, public television, public radio, is biased. It has a liberal bias, they say. No evidence of that, to my knowledge. Still, the mantra seems to try to brand it as something that is anathema to fairness or balance.

The other day I called Mr. Tomlinson, who is the Chairman of the Board of the Corporation for Public Broadcasting. He has been in the news a great deal. In fact, as Chairman, he is one who has made the point that he believes that some of the programming is not balanced, is in fact biased towards the liberal view.

I talked to Mr. Tomlinson by telephone the other day. I do not know him. I do not have anything bad to say about him. But I called him because of what I had read in the public domain that he has said as chairman of the board.

I knew he had hired, with public funds, a consultant to come in and take a look at programming, particularly Bill Moyers', called ''NOW,'' I believe it was titled, to see if it was fair. I will not use ''fair and balanced'' because that belongs to another brand.

So I wrote to Mr. Tomlinson and asked: Why do you not send me the work papers, send me the summary. I would like to see this report that you empaneled with public funding. He did. He sent me what he called the raw data. The raw data is here. This is raw, certainly, and I guess it is data, but there is no summary. So I called to ask: Would you please also send me summary.

If one looks through the raw data, it is unusual and strange. I will not enter this into the record. I will not put all of this information into the record. I am not going to read from all of it. I am still awaiting a summary. But I must say that the Chairman of the Board of the Corporation for Public Broadcasting hired a consultant to do an evaluation of programming. Then we have all of these sheets that describe the guests and it says: anti-Bush, anti-Bush, pro-Bush, anti-Bush. It appears to me to be not so much an evaluation of is this slanted, is it liberal, does it have an agenda; it is the evaluation of is this program critical of the President?

Is that why a consultant was employed, to see whether public broadcasting is critical of our President? God forbid that we would be critical of the President of the United States.

I find it interesting that in this evaluation—this one is incidentally conservative/liberal, C or L. This was not anti-Bush but C or L. My colleague, Senator HAGEL from Nebraska, appeared on one of the programs, and he apparently disagreed with a portion of President Bush's strategy with respect to Iraq. So my colleague, Senator HAGEL, is referred to as liberal. He is a liberal contributor to National Public Radio. My guess is that is going to surprise a lot of Nebraskans.

If he were on the floor he would probably say he is a pretty good conservative Republican, someone for whom I have deep admiration, but he kind of claimed the liberal status according to the consultant.

This is pretty unseemly, frankly, spending public money on a consultant who then sits down and looks at all of these programs to see if something is being said that might be critical about a President or Congress.

Well, I guess that is enough to say about this particular report. I will await the summary, but as someone who supports public broadcasting and thinks it contributes a great deal to this country—and by the way, who do my colleagues think has been willing to do programs about the concentration of media ownership in this country, about the fact that one company has gobbled up over 1,200 radio stations and fewer people are involved in what we hear, what we see and what we read in this country because they are gobbling up all the television stations as well? Who do my colleagues think has the guts to do programs on the question of what does the concentration in the media mean in America?

Is it ABC, or CBS, or NBC? Get real. Do my colleagues think they are going to do that? They are involved in the concentration. Public broadcasting did it. Public broadcasting is willing to take this on.

How about a program that describes waste in the Defense Department? I am on the Defense Appropriations Subcommittee. I feel very strongly about our country having a strong defense. I feel passionate about supporting men and women who wear this country's uniform. We need to honor them and support them in every way possible. I also happen to think that the Pentagon is one of the largest bureaucracies in the world, and there is massive waste there. So public television did one program in which they talked about waste over at the Pentagon. Do you know how that is described? Antidefense. God forbid that you should describe waste at the Pentagon because then you will be classified, according to this consultant, as antidefense.

Let me describe something that was going on deep in the bowels of the Pentagon about a year and a half ago. They spent about $8 million, and they were going to create what was called a futures market for terrorism. It was basically supposed to be an online betting parlor.

For example, you would be able to bet on such things as: How many American soldiers would be killed in the next year? Would the King of Jordan be assassinated within the next 12 months?

Yes, that is exactly what the Pentagon was preparing to put up and operate in a real way on the Internet. They were within 3 days of doing it, and they wanted $8 million to continue it for the next fiscal year.

Senator WYDEN and I discovered what they were trying to do. We blew it wide open. We had a press conference, described what they were doing, had on the Internet to show that they were only days away from implementing this crazy strategy, and the next day, the Department of Defense shut it down.

At the press conference, I said this idea of setting up an online betting

parlor to take bets on terrorism was unbelievably stupid. Can you imagine, setting up a futures market by which Americans can buy futures contracts and effectively bet on how many soldiers will be killed in the coming year? That is exactly what was going to happen in the bowels of the Pentagon.

Just as an aside, one of my staff people, about 4 months later, used a Google search and typed in the words ''unbelievably stupid,'' and my name came up. That is the danger of Google, I suppose.

But the fact is, what was happening in the bowels of the Pentagon was, in fact, unbelievably stupid and a tragic waste of the taxpayers' money and very unseemly, so we shut it down. Would that be called antidefense? I guess so. I guess, according to this consultant, that is antidefense. It may even be anti-Bush, I don't know.

On top of all this, the attack on public broadcasting by cutting the funding in the U.S. House, by hiring a consultant—unknown to the Board, by the way—with public funding to try to determine what is anti-Bush and pro-Bush or liberal or conservative—on top of all that, last week, the Washington Post reports that the search for the new president of the Corporation for Public Broadcasting has narrowed. I don't know whether it is true. I am just telling you what was in the papers last week. It has narrowed to two candidates, and the leading candidate is a former co-chair of the Republican National Committee. A former co-chair of the Republican National Committee they are going to make head, the president of the Corporation for Public Broadcasting? I don't think so. At least those who worry about bias, those who worry about objectivity, ought not be thinking about presenting to this Congress something as unprecedented as that.

I want public broadcasting in this country to be what it has always been: a proud symbol of independence, willing to search for the truth wherever it exists and willing to take on tough subjects. I mentioned that it falls to the Public Broadcasting System to air the programs about concentration in the media. Do you know why? Because FOX News is not going to do it, CBS is not going to do it, NBC and ABC won't do it. So the American people will be spoon-fed this intellectual pabulum that says: All this is really good. If one company owns all the radio stations in your town, good for you.

It is not good for you. Who is going to broadcast the local baseball games? Who is going to broadcast the local parade? Who is going to report on local issues, when someone in a basement in a city not far from here is broadcasting over a radio station in Salt Lake City and pretending to be living there when, in fact, they have never set foot in the town?

Enough about that—only to say that some of us in this Chamber and some of us in Congress care very deeply about the Corporation for Public Broadcasting, about public television and public radio. I happen to listen to NPR, National Public Radio, on the way in the mornings, in to work in the Capitol. I think it is some of the best news you can find.

Let me say I listen in the evening, when I can, to Jim Lehrer. I challenge you to find a better newscast than that which exists on public television. There are those who believe they want to abolish funding for it. If there are those who believe they want to have a former co-chair of the Republican National Committee now assume the presidency at a time when they themselves have raised all these questions and hired consultants about objectivity, I want them to know they are in for a fight because some of us care deeply about the future of public broadcasting in this country.

I wish to talk just for a moment about an announcement last week. Coming in, listening to the radio this morning, I heard a report that the dollar had strengthened just a bit recently. It has strengthened on the news that last Friday, at 8:30 in the morning, our trade deficit was announced, and our trade deficit last Friday was announced to be only $57 billion. It actually went up to $57 billion, a significant increase from the month before, but a bit less than had been expected. On the strength of that, the dollar improved a little bit because the currency market, which is probably on medication of some type, believes that is marginally good news.

This is the fourth highest monthly trade deficit in the history of this country, the fourth highest trade deficit ever. What it means is we are drowning in a sea of red ink. Going back to 1998, these are our monthly trade deficits on this chart. It means we are buying more from abroad than they are selling, importing much more than we are exporting. So each day, we sell about $2 billion worth of America. Each and every day, 7 days a week, we sell about $2 billion worth of our country.

This is what we expect. If we take a look at the first 4 months of trade deficits this year, it is 22 percent higher than last year. You see, last year was a big record. This year, we are probably headed toward $750 billion in the annual trade deficit.

To a lot of people, the trade deficit doesn't matter; it is just a term. There is nobody in this Chamber wearing a dark-blue suit who is ever going to lose his job because of a trade deficit. It is just folks working on production lines and working for American companies who discover that this trade deficit means we are buying from abroad what we used to buy at home and sending American jobs abroad. We are firing the workers at home and doing it relentlessly, day after day after day.

There are some who say, ''I know you are using these statistics and this data, but what really matters is how it relates to the entire economy.'' You can see how it relates to the economy. It is going up, up as a percent of our GDP.

Finally, while our trade deficit is a serious problem with Japan, with Canada, with Mexico, with Europe, this is the 500 pound gorilla—China. It is a dramatic problem.

I have spoken at length. Some do not want to hear it anymore, but it is worth saying again because, you know, repetition is important, at least for slow learners. For others, it is important just to remember. Let me describe some specific examples.

Incidentally, I notice the Presiding Officer smiled a bit. I am not speaking about anyone in this Chamber being a slow learner. These are all advanced learners who serve in the Senate, I am sure. But let me describe some stories, if I might. I have used them all.

Huffy bicycles. In fact, I got a letter from Huffy bicycles. They didn't like what I said. Huffy bicycles used to be made in Ohio. It was 20 percent of the bicycle market in the United States. You buy them all at Wal-Mart, Kmart, Sears. The people in Ohio who made Huffy bicycles actually put a little decal between the handle bar and the front fender. The decal was the American flag.

The workers in Ohio who made Huffy bicycles were fired because they were making $11 an hour plus benefits, and their jobs went to China for 30 cents an hour by people who work 7 days a week, 12 to 14 hours a day.

The last job performed by those folks in Ohio was to take off the little flag decal on the Huffy bicycle and replace it with a decal of the globe. Huffy bicycles are not American any more. They are Chinese. Why? Because American workers were making $11 an hour plus benefits. They were paid too much money.

Radio Flyer, the little red wagon that all the children in this country played with, was an American company for 110 years. It is gone now. Little red wagons are made elsewhere. Why? Because the American workers cost too much.

Levis? There is not one pair of Levis made in the United States. None. It is an all American company. Levis are gone.

Fig Newton cookies. Want to buy some Mexican food? Fig Newton cookies are made in Monterey, Mexico. They left this country to be made in Mexico.

Fruit of the Loom underwear, shorts, shirts—gone.

I could go on and on at great length. But these are companies who took their jobs elsewhere. Why? Because you can find labor dirt cheap, you can instantly move technology and capital, and then you can produce that product—yes, bicycles, wagons, underwear, shirts, shoes, trousers, trinkets, you name it—you can produce it elsewhere. Then you can ship it to Toledo, Fargo, to Los Angeles, Boston, New York, and sell it to the American consumer.

It is a brilliant strategy, if you are a big corporation that wants to maximize your profits. It is a devastating strategy, if you have worked all your life in a factory, proud of what you produce, and have just been told your job is gone.

Thirty years ago, the largest American corporation was General Motors. People frequently worked for that corporation for a lifetime, generally were paid a pretty good wage, were paid health care and also retirement benefits. Now, the largest corporation is Wal-Mart. I don't have to tell you what the average wage is, what the turnover is. The fact is, it is dramatically different, with less stability, fewer benefits, lower wages.

This country is in a race to the bottom, and what we ought to be doing with the strategy on international trade is lifting others up. Instead, we are pushing American workers down.

The other day, I found out that Lama boots, Tony Lama boots—I talk about Levis being all American, when you spot someone with Tony Lama boots, you think that is all American. Tony Lama boots has now moved to China.

The list goes on and on and on.

So the question is, when will this country stand up for its own economic interests? Not build walls around America, but at least develop a straight strategy that tries to lift others up rather than push us down. There is a feeling among some that workers do not matter very much, workers are like wrenches, like screwdrivers and pliers. Use them, use them up, and you throw them away. And throwing them away is as easy as saying, sayonara, so long, we are off to China, off to Sri Lanka, off to Bangladesh.

The thing is, none of this works. Henry Ford used to believe that he wanted his workers to earn a sufficient income so they could buy the product they produce. He wanted the workers at Ford Motor to have enough in wages to be able to buy Ford cars. Very simple. Simple economics.

This is an unsustainable course. We cannot continue this course of trade deficit after trade deficit, $50, $60 billion a month, month after month after month.

There is a lot of discussion about crisis around here. The President says Social Security is in crisis. It is not. Social Security, if nothing is done, will be wholly solvent until George W. Bush is 106. Clearly, it is not a crisis. Do we have to make some adjustments because people are living longer? Yes, and we will, and we should. But it is not a crisis. The trade deficit is a crisis. In a presidential campaign, some time ago, this issue was described as that giant sucking sound, that giant sucking sound that sucks American jobs out of this country.

People say, well, more people are working. But what is happening in this country? What is happening is good American jobs are leaving. And, no, it is not just the manufacturing jobs. It is now all too often engineering jobs, programming jobs, system design jobs, and others as well. What are the American workers replacing the lost jobs with? Jobs that pay less. Jobs with less security. Jobs without health care. Jobs without retirement capability. That is what is happening in our country.

Again, this town will snore through it. Last Friday, at 8:30 in the morning, we get an announcement that in the previous month we had a $57-billion trade deficit. What was the reaction to this town? Just roll over and continue laying down and taking another long nap because nothing much like this matters. This is not a crisis. This is not urgent, they say.

This country has an identity crisis. It has to decide what it wants for its future, and who will stand up for it. We fought for 100 years on these issues. We had people die on the streets of this country for the right to organize as workers. People literally died in the streets for the right to organize. Now a company can shut down their U.S. operation, ship the jobs to China, and if those workers, at 30 cents an hour, try to organize, they are fired like that. Just that quick.

We had people fighting in the streets over child labor laws, over safe workplaces, the right to work in a safe plant, the right to expect that a plant is not going to dump its chemicals into the air and into the water. Nowadays, corporations can instantly decide to pole-vault over that. We will just fire the American workers and move the jobs to another country.

The other day, I saw a report about the 470 workers laid off at a General Electric plant making refrigerators. They were told on April Fool's Day of this year, April 1, it would be the last day for 470 workers. G.E. was going to discontinue the production of midline, side-by-side refrigerator models that supposedly are not competitive or do not have the right product features, but a very similar new line of refrigerators will be started up in the G.E. Plant in Celaya, Mexico. And that plant will be funded with a loan from the Export Import Bank, which is to say U.S. taxpayers.

This may not matter much to someone around here who wears a white shirt and a blue suit to work and who is never going to lose their job to cheap foreign labor. I don't know of one journalist or one politician in this country that has ever lost their job to cheap foreign labor. It is just the folks on the assembly line, folks that work for a living in the plant, often the folks that have to come back in the evening and at suppertime and tell their family, I lost my job today. It wasn't because I did a bad job. I have worked for that company for 15, or 20, or 25 years. I love that job. I love it, but I cannot compete with 30 cents an hour.

This country has to try to figure out what is going on in how it deals with it. This country really needs to understand that this is a crisis and this requires action and an urgent response by this President and by this Congress.

There is so much to say about trade. I am tempted to continue to talk about the 600,000 cars we get from Korea every year. We get the opportunity to send 3,000 cars back into the Korean marketplace. Unbelievable to me. Just unbelievable. There are 600,000 vehicles coming our way from Korea, and we do not get cars into Korea.

I could talk about automobiles in China, talk about beef to Japan, I could talk about potato flakes to Korea. The length of the presentation could be nearly endless.

But for now let me say last Friday's announcement of one more trade deficit sells just a bit more of this country in a way that Warren Buffet, a fellow I greatly admire, says will one day put us in the position of being sharecroppers because we are selling part of America with these dramatic trade deficits. And it is not just selling part of our country when you are buying more than you are selling. Not only are your jobs leaving—and in this case they are leaving for much lower wages—but in addition to that, you end up, unlike the budget deficit, which you can argue as an economist we owe to ourselves, you end up providing, in the hands of foreign governments, currency, stock, or real estate claims against our country. That affects foreign policies, virtually everything else we do.

I will have more to say about this. But I did not want Friday's moment to pass, despite the rather sleepy attitude here in Washington, DC. In the hot, lazy months of summer, I did not want it to pass without some people understanding that some of us think what is happening is nuts. And some of us believe it is time—long past the time—for Congress and the President to have the backbone, the nerve, and the will to stand up for this country's economic interests and say: We represent this country. We represent the United States.

The next time there is a trade agreement negotiated, they ought to wear a jersey that says ''USA.'' And maybe they could just look down briefly to see who they represent and say: I stand for this country and this country's long-term interests. Without that—and we have not had that for a long while—this country, in my judgment, is consigned to a future of lower wages and a lower standard of living.

You will not, in my judgment, long remain a world economic power without addressing this issue directly. My hope is sooner, rather than later, my colleagues will join me.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. HAGEL are printed in today's RECORD under ''Morning business.'')

Mr. HAGEL. Mr. President, thank you. I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TOBACCO SETTLEMENT

Mr. DURBIN. Mr. President, I rise to speak on an issue that appeared in the newspapers last week. Last week a client was sold out by his lawyer. It happens across America on a regular basis. It is unfortunate. It is unethical, unprofessional, and basically wrong, but it happens.

The reason why this caught my attention, and the attention of many, was that the lawyer in this case was the Attorney General of the United States; the client, the American people. At issue was a lawsuit brought against the tobacco industry by the Department of Justice. It was a lawsuit started under President Clinton and carried on under President Bush. The case was made that the tobacco industry in America over 50 years deceived and deliberately misinformed the people about the dangers of the product they were selling.

Last week our lawyers, the Attorney General of the United States and the Department of Justice, the people who are supposed to be working endlessly every day to protect the best interests of America, basically walked away from their own case. The Department of Justice chose to dismiss credible testimony from its own witnesses, people it had brought into this lawsuit.

A few months ago, Michael Fiore, who spent his entire career in public health and the study of tobacco use and cessation, recommended a comprehensive smoking cessation program across America, funded at $5.2 billion a year for at least 25 years. Mr. Fiore's testimony was that we would take the money and profits the tobacco companies had made by deceiving the American people about the danger of tobacco and cigarettes and use it so that Americans currently smoking, addicted, or who might be tempted to smoke would have a chance to be spared from the disease and death which follows from that addiction.

Last week, the Justice Department's lawyer, a gentleman working for Attorney General Gonzales by the name of Stephen Brody, shocked the court and the American people by announcing that the Justice Department would only seek a fraction of the money which his own witness had said should be recovered by the people. This Assistant Attorney General, Stephen Brody, walked into a courtroom and said that instead of the $130 billion the tobacco companies would owe to the people to help them avoid tobacco addictions, he would only seek $10 billion.

Before I was elected to Congress, I used to be a trial lawyer. I used to go through this routine. But it certainly didn't involve billions or even millions of dollars. They were much smaller cases. If I was being sued and someone had said, Listen, we need $100,000 and that is it, come up with $100,000 or we are going to trial, I would have to make an assessment. Is this case one that I am likely to win or lose, if I am being sued, $110,000, $100,000 on the line? But if a few days before the trial they walked in and said, No, we are wrong. It isn't $100,000, it is only $10,000, I would think to myself, They don't have much of a lawsuit, on one day to ask for $100,000 and the next to ask for $10,000.

In this case, our Attorney General, through Mr. Brody, was asking the court for $130 billion. And then last week, to the surprise of everybody, he walked in and said, No, only $10 billion.

Does this administration really believe the people of the United States won't notice the Government is willing to leave $120 billion on the table and walk away from it?

Well, they did notice. Newspapers across the country have run editorials and articles criticizing the Department of Justice for what appears to be bad representation of the American people, the fact that the American people were cheated by their lawyer, newspapers are from all over the country: Houston, TX; Lowell, MS; Lakeland, OH; Harrisburg, PA; Tacoma, WA; Albuquerque; Denver; Racine, WI; Los Angeles; New York; and the Washington Post. The country has noticed that a lawyer sold out his client because it is a big sell-out.

The Albany Times Union wrote:

So, why the sudden about face? Yes, it's routine for attorneys to suddenly change a client's demand if it appears that the merits of the case are weak, or that a judge or jury appears likely to rule against them. But most legal experts had widely believed the government would win this case because it was based on the same evidence used successfully by state attorneys general to win $246 billion. That evidence . . . showed they knew cigarettes were addictive even as they conducted campaigns to get young people to smoke.

The Denver Post editorial was headlined, ''What Are the Feds Smoking?'' Good question.

The Lowell Sun says:

The dramatic change [in government strategy] was both shocking and outrageous. Allowing political pressure to interfere in any trial—particularly one of such importance—is beyond unacceptable, it's unconscionable.

Finally, the Houston Chronicle, from the President's own home State of Texas, quotes a civil attorney who says he would be ''thrilled'' if he were representing a tobacco company in this case. The lawyer said:

I've never seen anything like this happen unless there's political pressure.

It is obvious something happened in this case, and it wasn't about law. It was clearly about politics.

The Chronicle concludes:

If this illustrates the compassion [Attorney General] Alberto Gonzales promised to bring to the job, then he is feeling sorry for the wrong people.

I agree. This administration has never demonstrated much enthusiasm for this tobacco case, which it inherited from the Clinton administration.

To its credit, though, the Department has avoided public discussion of settlement, prosecuted a strong case, brought in the witnesses, until last week. I have joined several of my colleagues in the House and Senate asking the Attorney General to initiate an investigation surrounding this decision last week to basically sell out the American people when it comes to this tobacco lawsuit. I call on the Attorney General, through his inspector general or directly, to answer the question: Why did you walk away from the American people in this tobacco lawsuit?

This Government has signaled to the tobacco industry that the settlement will be cheap. While the American people deserve more, the people's lawyers appear to be winking at the other side. It is hard to imagine a settlement after last week that would be a good deal for the American people. I encourage the Department to hold off any settlement discussions until we replace the DOJ officials who sold us out last week. Those who put pressure on Stephen Brody have to go. If The Department of Justice can walk into that courtroom and sell out the American people, the American people need a new lawyer.

The purpose of this lawsuit was to hold accountable the promoters of tobacco use for what has become the leading cause of preventable death in America. An early settlement in this case will miss that point entirely. The Department of Justice set out a detailed case establishing the tobacco industry's role in misleading America. This is a rare opportunity to hold tobacco companies accountable for the preventable deaths tobacco causes and to reach those who are addicted to tobacco today.

The Department of Justice chose to walk away, leaving $120 billion and 43 million American lives behind.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I rise to speak on behalf of Mr. Thomas B. Griffith for confirmation to the U.S. Court of Appeals for the District of Columbia. I could not be here in my capacity as chairman of the Judiciary Committee to open the debate this afternoon because we had a field hearing on juvenile crime in Philadelphia. But I am here now because I want to express my views as to why I believe Mr. Griffith is preeminently well qualified to take on the important job of circuit judge in the District of Columbia.

Mr. Griffith has an extraordinary academic background. He graduated from Brigham Young University with his bachelor's degree in 1978, with a summa cum laude rating and high honors. He also was valedictorian of his college. He earned his law degree from the University of Virginia. During law school, Mr. Griffith was a member of the Editorial and Articles Review Board of the Virginia Law Review, which is a very high position at a prestigious law school.

Following law school, Mr. Griffith worked at the Charleston, NC, law firm of Robinson, Bradshaw & Hinson. He then continued his very distinguished professional career as a partner at Wiley, Rein & Fielding. In 1995, by unanimous resolution, the Senate, sponsored by the Republican and Democratic leaders, appointed him to the nonpartisan position of Senate legal counsel.

During his tenure as Senate legal counsel, Mr. Griffith tackled a very tough issue relating to the impeachment of President Clinton. He did an outstanding job. He also argued, on behalf of the Senate, two very important matters involving committee investigations and the line item veto litigation, which resulted in two landmark decisions by the Supreme Court of the United States, At the conclusion of his tenure, Mr. Griffith was unanimously endorsed by a bipartisan resolution, cosponsored by Senator Daschle, Senator LOTT, Senator DODD, and Senator MCCONNELL, expressing the Senate's gratitude for his services as Senate legal counsel.

There were especially complimentary remarks made by Senator DODD, who said, ''Mark Twain once suggested, 'Always do right. This will gratify some people and astonish the rest.' During his tenure as legal counsel, Tom exemplified this philosophy, impressing all who knew him with his knowledge of the law and never succumbing to the temptation to bend the law to partisan ends. All of us who serve here in the Senate know the importance of the rule of law; but let us never forget that it is individuals like Mr. Thomas Griffith whose calling it is to put that ideal into practice.''

Senator Thurmond also expressed high praise for Mr. Griffith, as did Senator LOTT.

Beyond his work in the profession, Mr. Griffith has found time to give back to the community. He serves as an advisory board member to the ABA Central European and Eurasian Law Initiative. Furthermore, while in private practice, Mr. Griffith took on a significant pro bono representation of a death row inmate, which led to the commutation of the inmate's sentence by the Governor of Virginia.

Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, statements of support on behalf of Mr. Griffith.

There being no objection, the material was to be printed in the RECORD, as follows:

SUPPORT

Seth Waxman said of Mr. Griffith's nomination, ''I have known Tom since he was Senate Legal Counsel and I was Solicitor General, and I have the highest regard for his integrity. For my own part, I would stake most everything on his word alone. Litigants would be in good hands with a person of Tom Griffith's character as their judge.''

Glen Ivey, former counsel to Former Senate Democratic Leader Tom Daschle, wrote to this Committee, stating, ''I believe Mr. Griffith is an exceptional nominee and would make an excellent judge. Although Mr. Griffith and have different party affiliations and do not agree on all political matters, I learned during the Senate's Whitewater and Campaign Finance Reform investigations that Mr. Griffith took seriously his oath of office. Even when we were handling sensitive and politically charged issues, he acted in a non-partisan and objective manner. I believe Mr. Griffith has the intellect and the temperament to make an outstanding jurist.''

According to David Kendall, personal counsel to President and Senator Clinton, ''For years Tom has been a leader in the bar and has shown dedication to its principles. The federal bench needs judges like Tom, an excellent lawyer who is supported across the political spectrum. . . . [W]e support Tom and believe he has the intellect and judgment to be an excellent judge.''

Harvard Law Professor William Stuntz has known Mr. Griffith for over twenty years. He wrote, ''Few people I know deserve to be called wise; very few deserve to be called both wise and good. Tom is a wise and good man. I believe he will be one of this nation's finest judges.''

Abner Mikva, a former White House Counsel for President Clinton and a former Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, wrote to Senator Leahy, ''I write as an enthusiastic supporter. . . . I have known Tom Griffith in the public sector and in the private sector, and I have never heard a whisper against his integrity or responsibility. Tom Griffith will be a very good judge. I have always found Tom to be diligent, thoughtful, and of the greatest integrity . . . Tom has a good temperament for the bench, is moderate in his views and worthy of confirmation.''

Finally, Senator Dodd of Connecticut noted that Mr. Griffith handled his difficult responsibilities as Senate Legal Counsel with great confidence and skill . . . impressing all who knew him with his knowledge of the law and never succumbing to the temptation to bend the law to partisan ends.''

Mr. SPECTER. There has been a challenge against Mr. Griffith, with respect to his Utah bar membership. Because he serves as general counsel to Brigham Young University, there were some questions raised as to whether he should have been a member of the Utah bar. I think that issue has been clarified, although some are still contesting it. I ask unanimous consent to have printed in the RECORD a full explanation of the Utah bar membership issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOM GRIFFITH: UTAH BAR MEMBERSHIP FACTS

As soon a Mr. Griffith accepted the position of Assistant to the President and General Counsel of Brigham Young University (''BYU''), he sought to determine what Utah's requirements were for in-house counsel by consulting with Utah attorneys.

Mr. Griffith always has complied with the advice he received—when his responsibilities require that he provide legal advice to the University, he does so only in close association with active members of the Utah Bar.

Mr. Griffith was told that, as in-house counsel, he need not become a member of the Utah Bar provided that when he gives legal advice, he does so in close association with active members of the Utah Bar.

Mr. Griffith has always provided legal advice in conjunction with one of four attorneys in his office who are licensed with the Utah Bar, or an outside counsel who is licensed with the Utah Bar. As BYU's General Counsel, he has made no court appearances, nor has he signed any pleadings, motions, or briefs.

Mr. Griffith communicated with Utah State Bar officials who were aware that he had not sat for the Utah Bar exam. These officials advised Mr. Griffith to associate himself closely with a Utah Bar member whenever giving legal advice pending his admission to the Utah Bar—which he did. Not once did Utah Bar officials warn Mr. Griffith that his arrangements were contrary to accepted practice—because they weren't. The Utah Bar has affirmed that such arrangements do not constitute practicing law without a license.

Numerous former and current Utah Bar officials have written letters affirming that the precautions taken by Mr. Griffith were appropriate and in accordance with the Utah Bar rules.

Five former Presidents of the Utah Bar: ''While there is no formal 'general counsel' exception to the requirement that Utah lawyers must be members of the Utah bar, it has been our experience that a general counsel working in the state of Utah need not be a member of the Utah Bar provided that when giving legal advice to his or her employer that he or she does so in conjunction with an associated attorney who is an active member of the Utah Bar and that said general counsel makes no Utah court appearances and signs no Utah pleadings, motions, or briefs.''—John Adams, Charles Brown, Scott Daniels, Randy Dryer, Dennis Haslam, Letter to Chairman Hatch, June 28, 2004.

John Baldwin, Executive Director of the Utah Bar: ''To those general counsel who cannot avoid circumstances which approach or may cross that line, we have consistently advised that under such circumstances they should directly associate with lawyers who are licensed in the state and on active status. Our policy has also consistently been that of those who follow that advice are not engaged in the unauthorized practice of law.''—Letter to Chairman Hatch, July 2, 2004.

Ethics experts have explained that Mr. Griffith has at all times been in compliance with rules of ethical professional conduct.

''[T]he requirement of membership in a particular bar is not in itself a rule of ethical professional conduct, but a lawyers' 'guild rule' (like minimum fee schedules and restrictions on advertising) designed to restrict competition.—Monroe Freedman, Law Professor at Hofstra University and Thomas Morgan, Law Professor at GW Law School, Letter to the Editor, New York Times, July 4, 2004.

''At best, the requirement of a license is intended to assure that one who holds himself out to the public as a lawyer is indeed competent to serve as a lawyer. In that regard, there is no question about Mr. Griffith's competence, which is the only ethical issue that is material.'' Id.

The ABA and the American Law Institute Restatement both support a policy of not requiring in-house counsel to be license in state, as long as the attorney is licensed in at least one state.

ALI Restatement: ''States have permitted practice within the jurisdiction by inside legal counsel for a corporation or similar organization, even if the lawyer is not locally admitted and even if the lawyer's work consists entirely of in-state activities, when all of the lawyer's work is for the employer-client and does not involve appearances in court. Leniency is appropriate because the only concern is with the client-employer, who is presumably in a good position to assess the quality and fitness of the lawyer's work.''—ALI Restatement, Section 3, Comment f.

ABA Model Rules: ''(d) A lawyer admitted in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission.''—Model Rule 5.5(d)(1).

Mr. Griffith's sole employer, BYU, was aware that Mr. Griffith was not a member of the Utah Bar and did not require him to be a member. BYU is the largest private university in the U.S., with campuses and programs throughout the world—much like a multinational corporation.

Former Dean of BYU Law and Chair of BYU General Counsel Search Committee, Professor H. Reese Hansen: ''The fact that Mr. Griffith was not a member of the Utah Bar was, of course, well known to all relevant decision makers when he was recommended for and hired as Assistant to the President and General Counsel to BYU.''—Letter to Chairman Hatch, June 29, 2004.

Dean Hansen: ''A lawyer who is employed as General Counsel to a [multinational corporation] and who provides legal and other services only to his or her employer is obviously not licensed to practice in every jurisdiction where the entity has suppliers, customers, or shareholders or where its advertisements may reach. I view BYU's Assistant to the President and General Counsel in exactly the same situation in regard to his bard membership. . . . I believe that Mr. Griffith has conducted his professional service to his sole client, Brigham Young University, in a completely appropriate manner in all regards and consistent with common practices of general counsel to large U.S. entities who conduct multi-state and international activities.'' Id.

Mr. SPECTER. Similarly, there had been an issue regarding Mr. Griffith's lapsed membership in the District of Columbia bar, which occurred because of an administrative oversight.

Excuse me; nothing is as troublesome as a pesky summer cold. Without this cold, my speech would be considerably longer, Mr. President, so there are some advantages, at least, for anyone who may be watching on C–SPAN—if anyone watches C–SPAN during these late afternoon proceedings of the Senate. I ask unanimous consent that a full explanation of the DC Bar membership issue also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOM GRIFFITH: D.C. BAR MEMBERSHIP

FACTS

In 2001, Mr. Griffith discovered that his D.C. Bar membership had been suspended for failing to pay his annual dues. As soon as he became aware of the problem, he paid the dues and was reinstated as a bar member in good standing.

Mr. Griffith accepts full responsibility for the oversight, and he brought the lapse in his membership to the attention of the Senate Judiciary Committee in his questionnaire.

Having worked as an attorney at a large D.C. law firm from 1991–1995, Mr. Griffith became accustomed to the firm's practice of paying its attorney's bar dues.

When Mr. Griffith became Senate Legal Counsel, he was late in paying his 1997 D.C. Bar dues, and as a result, was suspended from the D.C. Bar for approximately five weeks. As soon as Mr. Griffith became aware of the problem in January 1998, he paid the dues and was reinstated as a member in good standing.

In 1998, while still serving as Senate Legal Counsel, Mr. Griffith unintentionally failed to pay his 1998 D.C. Bar dues and was suspended as a result. He was unaware of his suspension at the time.

When Mr. Griffith returned to his former law firm in March 1999, he wrongly assumed, based on his prior experience at the firm, that the firm was paying dues on his behalf. He continued to have no knowledge of suspension.

Mr. Griffith paid his back dues as soon as he discovered the problem in 2001. He was promptly reinstated as a member in good standing of the D.C. Bar. Since then, he has paid his D.C. Bar dues in a timely manner and remains a D.C. Bar member in good standing.

Mr. Griffith's situation is not at all unusual. D.C. Bar counsel quotes that every year over 3,000 D.C. lawyers (and a number of sitting judges) are ''administratively suspended'' for late payment of dues.

An inadvertent failure to pay bar dues does not reflect poorly on Mr. Griffith's character or ability to serve as a judge on the U.S. Circuit Court of Appeals.

Abner Mikva, former Chief Judge, U.S. Court of Appeals for the D.C. Circuit: ''I cannot believe the [the Washington Post] or anyone else thinks that the inadvertent failure to pay bar dues because no bill was sent is a mark of a lawyer's character. I have known Tom Griffith in the public sector and in the private sector, and I have never heard a whisper against his integrity or responsibility.''—Letter to the Editor, Washington Post, June 8, 2004.

David Kendall, private attorney to former President Clinton, and Lanny Breuer, former Associate Counsel to President Clinton: ''Contrary to the Post's implication, Tom is an outstanding attorney who takes his responsibilities as a member of the bar seriously. . . . As soon as he realized that bills were unpaid, he paid them. Tom took the common and proper course of action under the circumstances. This innocent oversight has no bearing on his ability to serve as a judge.''—Letter to the Editor, Washington Post, June 11, 2004.

Former ABA Presidents Bill Ide and Sandy D'Alemberte, along with 11 other attorneys: ''By immediately paying his dues when he became aware of the oversight, Tom took the proper course of action. According to D.C. Bar counsel, such an oversight is entirely common and of no major concern, particularly where no reminder notice is sent out. In fact, Tom was promptly reinstalled after he paid his accrued dues, without any questions raised about possible sanctions.''—Letter to Chairman Hatch, June 14, 2004.

Ethics Expert, Professor Monroe H. Freedman, Hofstra University Law School: ''In the District of Columbia, Mr. Griffith had in fact been a member of the bar in good standing; the only problem was a temporary lapse in the payment of dues, which he promptly remedied when he became aware of it. He thereby once again became, and remains, a member of the D.C. Bar in good standing. Neither the bar nor anyone else has ever questioned Mr. Griffith's competence to practice law.''—Letter to Chairman Hatch, June 29, 2004.

Mr. Griffith was ''administratively suspended'' from the D.C. Bar for failure to pay his bar dues. No disciplinary action was ever taken against him.

*Former ABA Presidents Bill Ide and Sandy D'Alemberte, along with 11 other attorneys: ''The Post improperly equated Tom's situation to 'disciplinary suspension,' a rare sanction imposed only when a lawyer knowingly refuses to pay bar dues. It was nothing of the kind. When advised of the problem, Tom promptly paid his dues in full.''—Letter to Chairman Hatch, June 14, 2004.

Mr. SPECTER. We had a second hearing for Mr. Griffith this year, after I became chairman, because his original hearing was not well attended. It was held at the end of the last session. At the hearing this year, I think we explored in considerable detail the issue of his D.C. bar membership.

It is always a difficult matter when a lawyer is a member of one bar and seeks to become a member of another. I know I went through a similar issue when I took the New Jersey bar, 23 years after I attended law school. It is an experience, but I went through it. However, I think this by no means disqualifies Mr. Griffith, and I think the issue has been adequately explained on the record.

Tom Griffith is well known in the Senate, perhaps better known than virtually any other judicial nominee who comes here, because he had been legal counsel to the Senate. I think many people who know Mr. Griffith on a personal, intimate basis know of his high ethical standards, his scholarship, and his legal ability. He is soft spoken. He is mature. He is knowledgeable. I think he will make a fine circuit judge.

Mr. Griffith comes with an especially strong recommendation from the former chairman of the Judiciary Committee, Senator HATCH, who has known Mr. Griffith personally for many years, and speaks very highly of him.

Regrettably, I cannot be here tomorrow to speak again, as is the practice for the chairman to speak immediately before leadership, because I will be

traveling in Pennsylvania with President Bush. Tom Griffith is an outstanding candidate, and I urge my colleagues to vote to confirm him.

Mr. President, in the absence of any Senator seeking recognition, in fact, in the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I understand the debate is on the qualifications of Thomas Griffith.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BENNETT. I wish to make a few comments with respect to Mr. Griffith. I ask all Members of the Senate to think back on what for many of us will be the most dramatic experience we had as Members of this body. It was an unprecedented situation, certainly in this, the last century. You had to go all the way back to Abraham Lincoln's time to find anything similar to it, when we met in this body with the Chief Justice of the United States, William Rehnquist, sitting in the chair, and held an impeachment trial of the President of the United States.

I doubt very much that will ever happen again. It was a very different kind of trial than the one that occurred with Andrew Johnson the first time this happened. That was purely political with Andrew Johnson, and everybody recognized that. I remember a Member of this body saying that we had actually had three impeachment situations in our history: The first, Andrew Johnson; the second that never got to the Senate, which was Richard Nixon; and the third, President Clinton. The Senator said Andrew Johnson, clearly not guilty, clearly a political vendetta; Richard Nixon, clearly guilty, clearly should have been removed—he stopped that by resigning; and then he said the Clinton one was in between. It was a close case that could have gone one way or the other.

Some of my friends on the Democratic side of the aisle said it is not a question of whether he did it. It is not a question of whether it was a high crime and a misdemeanor. The only question was whether it was a serious enough high crime and misdemeanor on the part of the President of the United States to justify removing him from office. I think that was a thoughtful summary of where things were.

Why am I saying all of this with respect to Thomas Griffith? Because during the period that the Senate went through that very difficult and historic debate, the counsel to the Senate of the United States was Thomas Griffith. In that position, he served both sides. He was not counsel to the majority, he was not counsel to the minority, he was the Senate's counsel.

I remember very well the conversations that took place here, both formally and informally.

I remember the time when we were in a quorum call where the then minority leader, Tom Daschle, and the then majority leader, TRENT LOTT, met in the well of the Senate, other Senators pressed forward, and pretty soon we had about 30 Senators gathered around talking: What can we do, how can we resolve this, where can we go?

The decision was made, as a result of that, the Senate would go into the old Senate Chamber in executive session, where there were no television cameras, there were no reporters, there was no staff, other than the absolutely essential one or two. We talked about how we could get through this difficult time.

One of the speeches given in that chamber made this comment about the impeachment proceedings with respect to President Clinton. He said: This case is toxic. It has sullied the Presidency. It has stained the House of Representatives. It is about to do the same thing to us.

Unfortunately, the Senator made that prediction, with which I agree, but had no solution. He was just short of explaining how difficult that was going to be out of a sense almost of resignation that this particular case was going to end up besmirching the Senate as badly as it had stained the Presidency and the House of Representatives.

When it was all over, some 30 days later, that particular prediction had not come true. The Senate had not been stained. Indeed, it was one of the Senate's finest hours. We had come together in a civil way, with a deliberate understanding of our responsibility. We had acted responsibly. Every Member of the Senate had voted his or her own conscience, and we had disposed of the case in a manner that reflected well upon the Senate.

In that situation, the legal mind that was counselling both Senator Daschle and Senator LOTT was Tom Griffith, the Senate's counsel who would sit down with the Republicans and describe to Senators the precedent, outline what the consequences would be if we did this, that, or the other. He would then sit down with the Democrats and do exactly the same thing from a standpoint of evenhandedness, fairness, great respect for the law, and through documentation and examination, thorough scholarship and research.

The Senate counsel who did all of those things and helped the Senate through, arguably, one of its most difficult times in the last 100 years, is the man now before the Senate to be a circuit judge.

I am very surprised people have such short memories. People who were complaining about Tom Griffith not being qualified for the circuit court bench, where were they when he was qualified and performing magnificently on their behalf as the counsel of this body? Have they no memory of the professionalism, the deep research, the evenhanded fairness that Tom Griffith showed on that occasion? Don't they remember how he served, regardless of party, the law, the precedent, and the institution?

We can talk about opinions. We can talk about papers written. We can talk about positions taken. All of these are important in deciding what we should do with respect to a circuit court judge. But I cannot think of any place where we could duplicate the crucible in which a potential judge's capabilities are tried that would approach the crucible through which Tom Griffith has come.

I intend to support him. I urge my colleagues to support him. He will make an outstanding circuit court judge.

I, ultimately, come to a very personal kind of test. If I were on trial for some very complicated situation, some very Byzantine kind of charge that required a great legal mind to cut through to the real issues, would I want that case to be tried before Tom Griffith sitting on the bench? My answer, as I have thought about it, is clearly, yes. If I were on trial, and I needed a judge who had the capacity to cut through all the extraneous matter and get to the heart and render an accurate decision, I would want Tom Griffith to be the judge in that kind of case.

I hope I am never on trial in a case that goes before the circuit court. But there are those who will be. There are those who will have that challenge and have that experience. The best thing I can do for them is to vote to put Tom Griffith on the court so he will be there to render that kind of service and that kind of expertise on their behalf.

I hope he is confirmed. I will vote for his confirmation. I urge all of my colleagues to do the same.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. VOINOVICH are printed in today's RECORD under ''Morning Business.'')

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as in morning business for what time is required.

The PRESIDING OFFICER. Without objection, it is so ordered.

A FAILING OF THE SENATE

Mr. FRIST. Mr. President, in 45 minutes or so, we will be turning to an important issue which people have spoken to over the course of the day, an issue we will be spending the evening on. It is an issue that is one of the worst failings of this institution in our history, a failing surrounding a refusal to act on our part against lynching, against vigilantism, against mob murder. It has been a shame in many ways. We have to be careful when we use that word, but when we look at the reality of missed opportunities to act, we can, with justification, use the word ''shame'' on the institution and a shame on Senators who didn't just fail to act but deliberately kept the Senate and the whole of the Federal Government from acting and from acting proactively.

Although deep scars will always remain, I am hopeful we will begin to heal and help close the wounds caused by lynching. Four out of five lynch mob victims were African American. The practice followed slavery as an ugly expression of racism and prejudice. In the history of lynching, mobs murdered more than 4,700 people. Nearly 250 of those victims were from my State of Tennessee. Very few had committed any sort of crime whatsoever. Lynching was a way to humiliate, to repress, to dehumanize.

The Senate disgracefully bears some of the responsibility. Between 1890 and 1952, seven Presidents petitioned Congress to ban lynching. In those same 62 years, the House of Representatives passed three antilynching bills. Each bill died in the Senate, and the Senate made a terrible mistake.

The tyranny of lynch mobs created an environment of fear throughout the American South. Lynching took innocent lives. It divided society, and it thwarted the aspirations of African Americans. Lynching was nothing less than a form of racial terrorism.

It took the vision and courage of men and women such as Mary White Ovington, W.E.B. DuBois, George H. White, Jane Adams and, of course, fellow Tennessean Ida Wells-Barnett to pass Federal laws against lynching and put an end to the despicable practice.

Ida Wells-Barnett, indeed, may have done more than any other person to expose the terrible evils of lynching. A school teacher from Memphis who put herself through college, she became one of the Nation's first female newspaper editors. A civil rights crusader from her teens, Ida Wells committed herself to the fight against lynching after a mob murdered her friends—Thomas Moss, Calvin McDowell, and Henry Stewart.

These three men, driven by their entrepreneurial energy, opened a small grocery store that catered primarily to African Americans. They took business away from nearby White business owners. Driven by hatred and jealousy, by rage and prejudice, an angry White mob stormed their store. Acting in self-defense, Wells' three friends fired on the rioters. The police arrested the grocers for defending themselves. The mob kidnapped all three from jail, and all three were murdered in the Memphis streets.

These brutal murders galvanized Wells into action. Her righteous anger, blistering editorials, and strong sense of justice further enraged Memphis bigots. They burned her newspaper presses and threatened to murder her. Wells moved to Chicago and became one of that city's leading social crusaders. Wells' book ''Southern Horrors: Lynch Law in All Its Phases'' and her dogged investigative reporting exposed millions of Americans to the brutality of lynching. In a nation rife with racism and prejudice, Ida Wells and her colleagues began the civil rights movement. They helped bring us integration. They paved the way for equality. And they taught all of us that racism is a terrible evil.

After many years of struggle, after many setbacks, and after much heartache, they won. From President Truman's Executive order ending segregation in the Armed Forces to the 1964 Civil Rights Act, a series of civil rights laws moved the Nation toward legal equality.

But no civil rights law is as important to our Nation's political process as the 1965 Voting Rights Act.

It enfranchised millions of African-American voters and it brought many black politicians into office.

Section 4 of the Voting Rights Act will be up for reauthorization in 2007. President Reagan signed into law a 25-year reauthorization in 1982.

Section 4 contains a temporary preclearance provision that applies to Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, and parts of Alaska, Arizona, Hawaii, Idaho, and North Carolina.

These States must submit any voting changes to the U.S. Department of Justice for preclearance. If the Department of Justice concludes that the change weakens the voting strength of minority voters, it can refuse to approve the change.

While I recognize that this can impose a bureaucratic burden on States acting in good faith, we must continue our Nation's work to protect voting rights. That is why we need to extend the Voting Rights Act.

Quite simply, we owe civil rights pioneers such as Ida Wells nothing less.

I hope the day will come when racism and prejudice are relegated completely to our past. This resolution is a positive step in the right direction.

Transforming our Nation requires that we recall our history—all of it. We can become a better people by celebrating the glories of our past—but also our imperfections. That includes continuing to do our utmost to protect voting rights for all Americans.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Ms. LANDRIEU. I ask unanimous consent that the debate time on the Griffith nomination be yielded back and the Senate proceed to legislative session in order to consider S. Res. 39.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

APOLOGIZING TO LYNCHING VICTIMS AND THEIR DESCENDANTS

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 39) apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the clerk proceed with the reading of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read as follows:

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas lynching was a widely acknowledged practice in the United States until the middle of the 20th century;

Whereas lynching was a crime that occurred throughout the United States, with documented incidents in all but 4 States;

Whereas at least 4,742 people, predominantly African-Americans, were reported lynched in the United States between 1882 and 1968;

Whereas 99 percent of all perpetrators of lynching escaped from punishment by State or local officials;

Whereas lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and prompted members of B'nai B'rith to found the Anti-Defamation League;

Whereas nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century;

Whereas, between 1890 and 1952, 7 Presidents petitioned Congress to end lynching;

Whereas, between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures;

Whereas protection against lynching was the minimum and most basic of Federal responsibilities, and the Senate considered but

failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives to do so;

Whereas the recent publication of ''Without Sanctuary: Lynching Photography in America'' helped bring greater awareness and proper recognition of the victims of lynching;

Whereas only by coming to terms with history can the United States effectively champion human rights abroad; and

Whereas an apology offered in the spirit of true repentance moves the United States toward reconciliation and may become central to a new understanding, on which improved racial relations can be forged: Now, therefore, be it

Resolved, That the Senate—

(1) apologizes to the victims of lynching for the failure of the Senate to enact anti-lynching legislation;

(2) expresses the deepest sympathies and most solemn regrets of the Senate to the descendants of victims of lynching, the ancestors of whom were deprived of life, human dignity, and the constitutional protections accorded all citizens of the United States; and

(3) remembers the history of lynching, to ensure that these tragedies will be neither forgotten nor repeated.

Ms. LANDRIEU. Mr. President, tonight this body will take an important and extraordinary step. The Senate will, belatedly but most sincerely, issue a formal apology to the victims of lynching and their families, some of whom are with us tonight in this Chamber, for its failure to pass antilynching legislation.

Without question, there have been other grave injustices committed in the noble exercise of establishing this great democracy. Some have already been acknowledged and addressed by this and previous Congresses, and our work continues. However, there may be no other injustice in American history for which the Senate so uniquely bears responsibility. In refusing to take up legislation passed by the House of Representatives on three separate occasions and requested by seven Presidents from William Henry Harrison to Harry Truman, the Senate engaged in a different kind of culpability.

Beginning in 1881, this tragic phenomenon of domestic terrorism was documented in large measure through the groundbreaking and heroic efforts of Ida B. Wells-Barnett and the independent newspapers and publications. From that year until 1964, 4,742 American citizens were lynched. These are the recorded numbers. Historians estimate the true number to be much higher.

An apology alone can never suffice to heal the harm that was done, and for many victims justice is out of reach. Yet I believe, and this resolution lays forth the principle, that a sincere and heartfelt apology is a necessary first step toward real healing.

It is important that the people of our country understand the true nature of this unprecedented rampage of terror. Many Americans have images from popular books and movies, like ''To Kill a Mockingbird,'' that cloud their understanding of lynching. A group of angry White men take an accused and presumed guilty Black man deep into the woods and hang him. Those are the images, although accurate and tragic, but they delude us from the true nature of lynching in this dark period of American history.

The thought of a small, angry mob murdering Black prisoners in the dead of night ignores the reality of lynching in most respects. We are fortunate and grateful that a passionate and resolute independent scholar named James Allen saw something catalytic in the photographic evidence of lynching, and he began to collect these gruesome and horrific photographs. His work, ''Without Sanctuary,'' showed the real faces of lynching, and the images he unveiled began to change the way people viewed these tragic events and called to several of us in the Senate to issue this apology tonight. It is because of his work, this book, that the Committee for a Formal Apology and the families of the lynching victims—and some victims themselves who are here—are here today and that this important historic resolution is before the Senate.

I would like to show some of these photographs now. This is one of the hundreds—thousands of photographs of men, women, and children who were lynched in this Nation, lynching that occurred—a citizen of our Nation, lynched. As your eyes look at this picture, they are immediately drawn to the victim. These hangings were sometimes—in most instances—very brutal events. Sometimes the hanging itself came after hours of torture and just excruciating fear and humiliation.

After this book was published and these pictures came into more full view of the American public, what happens is your eyes leave the figure of the victim and move to the audience. This is part of the story that, in my mind, has not been completely told, and it needs to be told tonight and every day into the future.

As you can see, there are children gathered here. These are children looking up at this man hanging from a tree. History will record that some of these children were let out of Sunday schools to attend the lynchings. History will record that some businesses closed down so that the whole town could attend these lynchings. History will record that these lynchings did not occur mostly at night or in the back woods or across the levees—lynchings were a community event. In many instances, it was a form of public entertainment. It was mass violence, an open act of terrorism directed primarily against African Americans and others who sympathized with their cause.

If we are truly to understand the magnitude of this tragedy, we must study the stories behind this grim parade of death.

In March of 1892, three personal friends of Ida B. Wells opened the ''People's Grocery Company,'' a store located across the street from a White-owned grocery store that had previously been the only grocer in the area. Angered by the loss of business, a mob gathered to run the new grocers out of town. Forewarned about the attack on their store, the three owners armed themselves for protection, and in the riot that ensued, one of the businessmen injured a White man. All three were arrested and jailed. Days later, the mob kidnapped the men from jail and lynched them. This was the case that led Ida B. Wells to begin to speak out against this injustice.

Her great grandson is with us today. He has told this story through the halls of Congress to give testimony to her life and to her courage and to her historic efforts. Without the work of this extraordinarily brave journalist, this story never really could have been told in the way it is being told now, today, and talked about here on the Senate floor. To her, we owe a great deal of gratitude. She knew these men personally. She knew they were businessmen. They were not criminals. She knew they were successful salespeople, not common thugs. And she wrote and she spoke and she tried to gather pictures to tell a story to a nation that simply refused to believe.

Forty-two years and thousands of lynchings later is the case of Claude Neal of Marianna, FL. After 10 hours of torture, Claude Neal ''confessed'' to the murder of a girl with whom he was allegedly having an affair. For his safety, he was transferred to an Alabama prison. A mob took him from there. They cut off his body parts. They sliced his side and stomach. People would randomly cut off a finger here, a toe there. From time to time, they would tie a noose around him, throw the rope over a tree limb. The mob would keep him there in that position until he almost died then lower him again to begin the torment all over.

After several hours, and I guess the crowd exhausted themselves, they just decided to kill him. His body was then dragged by car back to Marianna, and 7,000 people from 11 States were there to see his body in the courthouse of the town square. Pictures were taken and sold for 50 cents a piece.

One might ask, how do we know all the grizzly details of Claude Neal's death? It is very simple. The newspapers in Florida had given advance notice. They recorded it one horrible moment after another. One of the members of the lynch mob proudly relayed all the details that reporters had missed in person. Yet, even with the public notice, 7,000 people in attendance, and people bragging about the activity, Federal authorities were impotent to stop this murder. State authorities seemed to condone it, and the Senate of the United States refused to act.

Time went on. In 1955, just 9 years before Congress passed the Civil Rights Act, the world witnessed the brutal lynching of Emmett Till. Fourteen

years old, Emmett Till was excited about his trip from his home on Chicago's southside to the Mississippi Delta. Like many children during the summer, he was looking forward to visiting his relatives. Prior to his departure, his mother, Maimie Till Bradley, a teacher, had done her very best to advise him about how to behave while in Mississippi. With his mother's warning and wearing the ring that had belonged to his deceased father, on August 20, 1955, Till set off with his cousin, Curtis Jones, on a train to Mississippi.

Once there, he and some friends went to buy some candy at the general store. According to his accusers, this young 14-year-old whistled at a store clerk as he left. She happened to be a white woman.

Armed with pistols, the mob took Emmett from his uncle's home. His uncle is with us tonight. They took him in the middle of the night. Three days later his little body was discovered in the Tallahatchie River, weighed down by a 75-pound cotton gin fan tied around his neck with barbed wire. His face was so mutilated when Wright identified the body he could only do so based on the ring that he had been wearing.

Coincidentally, through no asking of our own, but I guess it is appropriate, the trial of his accused murderer, Edgar Ray Killen, begins today in Mississippi.

While the details that led to the lynching are not always clear from just these few that I have described, there is little doubt what took place at the lynchings themselves. In most instances, prelynching newspaper notices, school closings to allow children to view the spectacle, special order trains to carry people to the event, are all part of a gruesome but true part of America's history.

Jazz legend Billy Holiday provided real texture in her story and song ''Strange Fruit.'' She defied her own record label and produced and published the song on her own, was threatened with her life because she continued to sing it. But like so many things, words can't always describe what is happening, even though speeches were given, words were written, newspapers were published.

The words to the song are as follows:

Southern trees bear a strange fruit
Blood on the leaves and blood at the root,
Black body swinging in the Southern breeze,
Strange fruit hanging from the poplar trees.

Pastoral scene of the gallant South,
The bulging eyes and the twisted mouth,
Scent of magnolias sweet and fresh,
And the sudden smell of burning flesh.

Here is a fruit for the crows to pluck,
For the rain to gather, for the wind to suck,
For the sun to rot, for a tree to drop,
Here is a strange and a bitter crop.

Something in the way she sang this song, something in the pictures that described the event, must have touched the heart of Americans because they began to mobilize, and men and women, White and Black, people from different backgrounds, came to stand up and begin to speak. They spoke with loud voices and with moving speeches and with great marches.

But the Senate of the United States, one of the most noble experiments in democracy, continued to pretend, to act like this was not happening in America and continued to fail to act.

It would be a mistake to look at this ugly chapter in our democracy's development with pity and hopelessness, however. The truth is, today's apology should be seen as a tribute to the endurance and the triumph of African-American families.

There is a particular family here, the Crawford family. I think there are over 150 of them. Earlier today I talked with some of the leaders of the family. I said: What doesn't kill you makes you stronger. They nodded because that is exactly what happened to this family. The town tried to kill this family, to run them out, and, in fact, ran them out of the town, but this family just grew stronger, and with their love and lack of bitterness, but with a determination to find justice some way, they are here today. In fact, it was the progress of African Americans that spurred this terrible reaction to them in the first place.

As I stated earlier, the early lynchings were not of criminals. The early lynchings were of successful farmers, of successful businessmen, leaders in their communities because these lynchings were an act of terrorism to make American citizens feel they had no voice and no place.

W.E.B. Dubois summarized the motivation behind these slayings perfectly when he said:

. . . [T]he South feared more than Negro dishonesty, ignorance and incompetency, Negro honesty, knowledge, and efficiency.

With slavery abolished by the Civil War, a group of Americans had to mentally justify as inferior and subhuman those who suddenly were equals and competitors. Having lost the war throughout the South, watching the progress of former slaves was simply too much in that region and in other regions throughout the country, as well.

As a senior Senator from the State of Louisiana, I feel compelled to spend just a few moments, before I acknowledge my friend and cosponsor in the Senate, Senator GEORGE ALLEN, who has brought this resolution to the attention of our Senate colleagues.

Louisiana has a distinct history from much of the United States due to its long colonial ties with both France and Spain. One consequence of this history is that Louisiana had more free people of color than any other Southern State. Nearly 20,000 Louisianians who were largely concentrated in New Orleans formed a large and very prosperous African-American community in the 1860s. They enjoyed more rights than most free men of color. A large percentage spoke only French and educated their children in Europe. The community, the records show, owned more than $2 million worth of property, which was quite a large sum in those days, and dominated skilled labor areas such as masonry, carpentry, cigar making, and shoemaking.

That is why Louisiana's prominent role in lynchings is so bitter. It mars a long history of tolerance and integration that to this day distinguishes Louisiana from other places in the South.

Still the difficult fact remains that only three States have had a higher incidence than Louisiana of these occurrences. The NAACP, which was founded over the issue of lynchings, recorded 391 such murders in my State.

I ask unanimous consent that a list of all the Louisiana victims compiled by Professor Michael Pfeifer, author of ''Rough Justice, Lynching and American Society,'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF LOUISIANA VICTIMS

April 24, 1878, Unidentified Man, Unidentified Sugar Parish, Arson, Unknown, Unknown.

July 30, 1878, Jim Beaty, Monroe, Ouachita Parish, Unknown, Black, Private.

July 30, 1878, Ples Phillips, Monroe, Ouachita Parish, Unknown, Black, Private.

July 30, 1878, Tom Ross, Monroe, Ouachita Parish, Unknown, Black, Private.

July 30, 1878, Henry Atkinson, Monroe, Ouachita Parish, Unknown, Black, Private.

September 14, 1878, Valcour St. Martin, Hahnville, St. Charles Parish, Murder, Unknown, Unknown.

October, 1878, Joshua Hall, Ouachita Parish, Unknown, Black, Mass.

October, 1878, Sam Wallace, Ouachita Parish, Unknown, Black, Mass.

November 5, 1878, Unidentified Man, Ouachita Parish, Unknown, Black, Unknown.

November 5, 1878, Unidentified Man, Ouachita Parish, Unknown, Black, Unknown.

November 5, 1878, Unidentified Man, Ouachita Parish, Unknown, Black, Unknown.

November 5, 1878, Unidentified Man, Ouachita Parish, Unknown, Black, Unknown.

November 5, 1878, Unidentified Man, Ouachita Parish, Unknown, Black, Unknown.

December 3, 1878, Moustand, Franklin, St. Mary Parish, Attempted Rape, Black, Private.

December 15, 1878, Victor Bryan, New Roads, Pointe Coupee Parish, Murder, Black, Private.

September 1, 1879, George Williams, Ouachita Parish, Threats Against White, Black, Private.

August 20, 1879, Ed. Rabun, Shiloh, Union Parish, Attempt to Rape, Black, Unknown.

October 29, 1879, W.J. Overstreet, Farmerville, Union Parish, Murder, White, Mass.

December 28, 1879, Dick Smith, Amite City, Tangipahoa Parish, Murder, Black, Private.

December 28, 1879, Geo. Carroll, Amite City, Tangipahoa Parish, Murder, Black, Private.

December 28, 1879, Harrison Johnson, Amite City, Tangipahoa Parish, Murder, Black, Private.

December 28, 1879, Unknown, Amite City, Tangipahoa Parish, Murder, Black, Private.

November 20, 1880, Thornhill, Many, Sabine Parish, Horse Theft, White, Private.

November 20, 1880, Fields, Many, Sabine Parish, Horse Theft, White, Private.

January 6, 1880, James Brown, Lake Providence, East Carroll Parish, Murder, White, Private.

April 1, 1880, J. Tucker, Greensburg, St. Helena Parish, Murder, Black, Private.

December, 1880, Dr. Jones, East Carroll Parish, Political Causes, Unknown, Unknown.

December 20, 1880, Garnett Thompson, West Feliciana Parish, Insulted and Shot White Man, Black, Unknown.

May 15, 1881, Cherry Nickols, Mount Lebanon, Bienville Parish, Murder and Rape, Black, Private (Mixed or Black).

July 19, 1881, Unidentified Man, Kingston, De Soto Parish, Murder and Robbery, Black, Private.

July 20, 1881, Unidentified Man, Lincoln Parish, Attempted Rape, Black, Unknown.

July 17, 1881, Spence, Frog Level, Caddo Parish, Attempted Criminal Assault, Black, Unknown.

August 22, 1881, Alec Wilson, Ouachita Parish, Murder, Black, Unknown.

August 22, 1881, Perry Munson, Ouachita Parish, Murder, Black, Unknown.

August 31, 1881, Caleb Jackson, Vernon, Jackson Parish, Arson, Black, Unknown.

September 26, 1881, Ben Robertson, Jeanerette, Iberia Parish, Theft, Black, Private.

November 17, 1881, Stanley, Pointe Coupee Parish, Murderous Assault, White, Private.

May 15, 1882, Joseph Jenkins, St. Martinville, St. Martin Parish, Murder, White, Unknown.

May 15, 1882, Eugene Azar, St. Martinville, St. Martin Parish, Murder, Black, Unknown.

June 20, 1882, Ingram, St. Tammany Parish, Desperado, Unknown, Unknown.

June 20, 1882, Howard, St. Tammany Parish, Desperado, Unknown, Unknown.

June 20, 1882, Mack Taylor, Webster Parish, Murderous Assault, Black, Mass.

October 28, 1882, Wm. Harris, Lincoln Parish, Attempted Rape, Black, Posse.

November 7, 1882, Unidentified Man, Vienna, Lincoln Parish, Murderous Assault, Black, Unknown.

November 7, 1882, Unidentified Man, Vienna, Lincoln Parish, Murderous Assault, Black, Unknown.

November 18, 1882, N. David Lee, Holly Grove, Franklin Parish, Hog Theft, Black, Private.

December 8, 1882, Tim Robinson, Bastrop, Morehouse Parish, Murderous Assault, Black, Unknown.

December 8, 1882, Wm. Cephas, Bastrop, Morehouse Parish, Murderous Assault, Black, Unknown.

December 8, 1882, Wesley Andrews, Bastrop, Morehouse Parish, Murderous Assault, Black, Unknown.

January 23, 1883, Henry Solomon, Bellevue, Bossier Parish, Arson, Horse Theft, Black, Private.

May 13, 1883, D.C. Hutchins, Bellevue, Bossier Parish, Murder, White, Mass.

July 9, 1883, Henderson Lee, Bastrop, Morehouse Parish, Larceny, Black, Private.

October 12, 1883, Louis Woods, Edgerly Station, Calcasieu Parish, Rape, Black, Unknown.

April 27, 1884, John Mullican, Monroe, Ouachita Parish, Murder and Robbery, White, Mass.

April 27, 1884, John Clark, Monroe, Ouachita Parish, Murder and Robbery/White, Mass.

April 27, 1884, King Hill, Monroe, Ouachita Parish, Murder, Unknown, Mass.

October 21, 1884, Charles McLean, Bellevue, Bossier Parish, Arson, White, Private.

October 24, 1884, Unidentified Man, St. Tammany Parish, Murder, Black, Unknown.

October 24, 1884, Unidentified Man, St. Tammany Parish, Murder, Black, Unknown.

October 24, 1884, Unidentified Man, St. Tammany Parish, Murder, Black, Unknown.

October 24, 1884, Unidentified Man, St. Tammany Parish, Murder, Black, Unknown.

December 22, 1884, Wm. Fleitas, Madisonville, St. Tammany Parish, Murderous Assault, White, Unknown.

January 1, 1885, Unidentified Man, Madison Parish, Trainwrecking, Unknown, Unknown.

January 1, 1885, Unidentified Man, Madison Parish, Trainwrecking, Unknown, Unknown.

March 5, 1885, Unidentified Man, St. Landry Parish, Murder, Unknown, Private.

March 5, 1885, Unidentified Man, St. Landry Parish, Murder, Unknown, Private.

April 22, 1885, Abe Jones, New Roads, Pointe Coupee Parish, Murder, Black, Unknown.

April 22, 1885, William Pierce Mabry, near Shiloh, Union Parish, Defended Black Woman from Beating, White, Unknown.

July 22, 1885, Cicero Green, Minden, Webster Parish, Murderous Assault, Black, Mass.

July 22, 1885, John Figures, Minden, Webster Parish, Murder, Black, Mass.

September 30, 1885, Sampson Harris, Winn Parish, Threat to Give Evidence against Whitecappers, Black Terrorist.

February 16, 1886, George Robinson, Monroe, Onachita Parish, Murder, Black, Mass.

May 6, 1886, Robert Smith, St. Bernard Parish, Murder, Black, Private.

October 18, 1886, Reeves Smith, De Soto Parish, Attempted Rape, Black, Mass.

December 28, 1886, John Elia, Arcadia, Bienville Parish, Murder, White, Private.

January 8, 1887, Ike Brumfield, Tangipahoa Parish, Unknown, Black, Unknown.

April 28, 1887, Gracy Blanton, Floyd, West Carroll Parish, Arson and Robbery, Black, Private.

April 28, 1887, Richard Goodwin, Floyd, West Carroll Parish, Arson and Robbery, Black, Private.

June 6, 1887, M.W. Washington, De Soto Parish, Burglary with Intent to Rape, Black, Unknown.

June 30, 1887, James Walden, Simsboro, Lincoln Parish, Larceny, Black, Private.

August 9, 1887, Thomas Scott, Morehouse Parish, Murder, White, Private.

August 11, 1887, Daniel Pleasants (alias Hoskins), Harding Plantation, St. Mary Parish, Murder, Black, Posse (Mixed).

August 13, 1887, Green Hosley, Union Parish, Asserted Self-Respect in Dispute with White, Black, Private.

October 20, 1887, Perry King, Lamar, Franklin Parish, Attempted Rape, Black, Mass.

October 20, 1887, Drew Green, Lamar, Franklin Parish, Attempted Rape, Black, Mass.

November 7, 1887, Unidentified Man, Caddo Parish, Miscegenation, Black, Unknown.

December 9, 1887, Andrew Edwards, near Minden, Webster Parish, Voodoism, Black, Private (Black).

January 28, 1888, Ben Edwards, Amite City, Tangipahoa Parish, Criminal Assault, Black, Mass.

February 9, 1888, Unidentified Man, Ponchatoula, Tangipahoa Parish, Attempted Rape, Black, Private.

May 6, 1888, Dave Southall, Pointe Coupee Parish, Attempted Murder and Political Causes, White, Private.

September, 1888, Unidentified Woman, Breaux Bridge, St. Martin Parish, Unknown, Black, Terrorist.

September 17, 1888, Louis Alfred (Jean Pierre Salet), Ville Platte, St. Landry (now Evangeline) Parish, Incendiary Language, Black, Terrorist.

September 17, 1888, Jno. Johnson (Sidairo), Ville Platte, St. Landry (now Evangeline) Parish, Incendiary Language, Black, Terrorist.

November 9, 1888, Lulin, St. Landry Parish, Unknown, Black, Terrorist.

November 13, 1888, Unidentified Man, Donaldsonville, Ascension Parish, Rape, Black, Mass.

November 22, 1888, Jerry Taylor, St. Helena Parish, Rape, Black, Private.

January 25, 1889, Samuel Wakefield, New Iberia, Iberia Parish, Murder, Black, Posse.

January 29, 1889, James Rosemond, New Iberia, Iberia Parish, Theft, Black, Private.

February 8, 1889, Haygood Handy, near Bellevue, Bossier Parish, Murder and Hog Stealing, Black, Unknown.

April 14, 1889, Steve. McIntosh, Magenta Plantation, Bayou Desiard, Ouachita Parish, Rape, Unknown, Unknown (Black).

April 16, 1889, Hector Junior, near New Iberia, Iberia Parish, Murderous Assault, Black, Posse.

May 18, 1889, Unidentified Man, near Columbia, Caldwell Parish, Burglary, Black, Unknown.

July 11, 1889, Felix Keys, Lafayette Parish, Murder, Black, Mass (Mixed).

November 16, 1889, Ed Gray, Vidalia, Concordia Parish, Arson, Black, Private.

December 31, 1889, Henry Holmes, Bossier Parish, Murderous Assault, Black, Unknown.

January 8, 1890, Henry Ward, Bayou Sara, West Feliciana Parish, Murder, Black, Private.

February 18, 1890, R.F. Emerson, St. Joseph, Tensas Parish, Murderous Assault, White, Unknown.

May 13, 1890, Phillip Williams, Napoleonville, Assumption Parish, Attempted Rape, Black, Mass.

June 16, 1890, George Swayze, East Feliciana Parish, Political Causes, White, Private (Possibly Black).

June 26, 1890, John Coleman, Caddo Parish, Murder, Black, Unknown (Black).

August 21, 1890, Wml. Alexander, East Baton Rouge Parish, Attempted Rape, Black, Private.

October 12, 1890, Frank Wooten, Claiborne Parish, Arson, Black, Unknown.

November 20, 1890, Unidentified Man, southeastern East Baton Rouge Parish, Bulldozing, Black, Terrorist.

March 14, 1891, Antoino Scoffedi, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Joseph Macheca, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Pietro Monasterio, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, James Caruso, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Rocco Gerachi, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Frank Romero, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Antonio Marchesi, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Charles Traina, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Loretto Comitz, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Antonio Bagnetto, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

March 14, 1891, Manuel Politz, New Orleans, Orleans Parish, Conspiracy to Murder, Italian, Mass (Mixed).

May 21, 1891, Tennis Hampton, Gibsland, Bienville Parish, Murder, Black, Private.

May 23, 1891, William Anderson, Caddo Parish, Murder, Black, Posse.

May 23, 1891, John Anderson, Caddo Parish, Murder, Black, Posse.

June 2, 1891, Samuel Hummell, Hermitage, Pointe Coupee Parish, Murder, Black, Unknown.

June 2, 1891, Alex Campbell, Hermitage, Pointe Coupee Parish, Murder, Black, Unknown.

June 2, 1891, Unidentified Man, Hermitage, Pointe Coupee Parish, Murder, Black, Unknown.

September 8, 1891, Unidentified Man, near Arcadia, Bienville Parish, Rape, Black, Posse.

October 19, 1891, John Rush, Caldwell Parish, Murder, White, Private.

October 28, 1891, Jack Parker, Covington, St. Tammany Parish, Murder, Black, Mass (Black).

October 29, 1891, Unidentified Man, ''the Poole place,'' Bossier Parish, Outrageous Act, Black, Mass (Mixed).

November 4, 1891, J.T. Smith, near Bastrop, Morehouse Parish, Murder, Black, Mass.

November 4, 1891, W.S. Felton, near Bastrop, Morehouse Parish, Murder, Black, Mass.

November 10, 1891, John Cagle, near Homer, Claiborne Parish, ''Bad Negro,'' Black, Unknown.

November 27, 1891, John Maxey, Many, Sabine Parish, Criminal Assault, Black, Private.

December 27, 1891, Unidentified Man, Black Water Plantation, Concordia Parish, Accessory to Murder, Black, Unknown.

January 7, 1892, Horace Dishroon, Rayville, Richland Parish, Murder, Robbery, Black, Mass.

January 7, 1892, Eli Foster, Rayville, Richland Parish, Murder, Robbery, Black, Mass.

January 9, 1892, Nathan Andrews, Bossier Parish, Murder, Black, Posse.

January 11, 1892, Undentified Man, Bossier Parish, Murder, Robbery, Black, Private (Black).

March 12, 1892, Ella, near Rayville, Richland Parish, Attempted Murder, Black, Private.

March 26, 1892, Dennis Cobb, Bienville Parish, Unknown, Black, Terrorist.

March 27, 1892, Jack Tillman, Jefferson Parish, Argued with and Shot White Men, Black, Terrorist.

April 6, 1892, Unidentified Man, Grant Parish, Murder, Black, Posse.

April 6, 1892, Unidentified Man, Grant Parish, Murder, Black, Posse.

April 6, 1892, Unidentified Man, Grant Parish, Murder, Black, Posse.

April 6, 1892, Unidentified Man, Grant Parish, Murder, Black, Posse.

April 23, 1892, Freelan, Pointe Coupee Parish, Murder and Extortion, White, Posse.

May 28, 1892, Walker, Bienville Parish, Improper Relations with White Girl, Black, Unknown.

September 2, 1892, Edward Laurent, Avoyelles Parish, Aiding Murderer, Black, Terrorist.

September 5, 1892, Gabriel Magliore, Avoyelles Parish, Threats to Kill, Black, Terrorist.

September 7, 1892, Henry Dixon, Jefferson Parish, Murder, Theft, Black, Private.

September 13, 1892, Eli Lindsey, Morehouse Parish, Murder, Black, Unknown (Black).

September 27, 1892, Benny Walkers, Concordia Parish, Attempted Criminal Assault, Black, Mass.

October 21, 1892, Thomas Courtney, Iberville Parish, Shot Man, Black, Posse.

November 1, 1892, Daughter of Hastings, Catahoula Parish, Daughter of Murderer, Black, Private.

November 1, 1892, Son of Hastings, Catahoula Parish, Son of Murderer, Black, Private.

Noevmber 4, 1892, John Hastings, Catahoula Parish, Murder, Black, Private.

November 29, 1892, Richard Magee, Bossier Parish, Murder, Black, Unknown.

November 29, 1892, Carmichael, Bossier Parish, Complicity in Murder, Black, Unknown.

December 28, 1892, Lewis Fox, St. Charles Parish, Murder, Robbery, Black, Private.

Decmber 28, 1892, Adam Gripson, St. Charles Parish, Murder, Robbery, Black, Private.

January 8, 1893, Unidentified Man, Union Parish, Murderous Assault, Black, Unknown.

January 20, 1893, Robert Landry, St. James Parish, Murder, Robbery, Black, Private.

January 20, 1893, Chicken George, St. James Parish, Murder, Robbery, Black, Private.

January 20, 1893, Richard Davis, St. James Parish, Murder, Robbery, Black, Private.

January 25, 1893, Wm. Fisher, Orleans Parish, Stabbing of White Woman, Murder, Black, Posse.

May 6, 1893, Israel Holloway, Assumption Parish, Rape, Black, Unknown.

July 13, 1893, Meredith Lewis, Tangipahoa Parish, Murder, Black, Private (Black).

September 16, 1893, Valsin Julian, Jefferson Parish, Brother of Murderer, Black, Private.

September 16, 1893, Paul Julian, Jefferson Parish, Brother of Murderer, Black, Private.

September 16, 1893, Basile Julian, Jefferson Parish, Brother of Murderer, Black, Private.

September 29, 1893, Henry Coleman, Bossier Parish, Attempted Assassination, Black, Mass.

October 19, 1893, Unidentified Man, Bossier Parish, Stock Theft, Black, Unknown (Mixed).

October 19, 1893, Unidentified Man, Bossier Parish, Stock Theft, Black, Unknown (Mixed).

December 27, 1893, Tillman Green, Caldwell Parish, Attempted Rape, Black, Private.

January 18, 1894, Unidentified Man, West Feliciana Parish, Arson and Murder, Black, Unknown.

April 23, 1894, Samuel Slaughter, Madison Parish, Murder and Insurrection, Black, Mass.

April 23, 1894, Thomas Claxton, Madison Parish, Murder and Insurrection, Black, Mass.

April 23, 1894, David Hawkins, Madison Parish, Murder and Insurrection, Black, Mass.

April 27, 1894, Shell Claxton, Madison Parish, Murder and Insurrection, Black, Mass.

April 27, 1894, Tony McCoy, Madison Parish, Murder and Insurrection, Black, Mass.

April 27, 1894, Pomp Claxton, Madison Parish, Murder and Insurrection, Black, Mass.

April 27, 1894, Scott Harvey, Madison Parish, Murder and Insurrection, Black, Mass.

May 23, 1894, George Paul, Pointe Coupee Parish, Offended White Man, Black, Unknown.

June 10, 1894, Mark Jacobs, Bienville Parish, Unknown, Black, Terrorist.

June 14, 1894, John Day, Ouachita Parish, Arson, White, Unknown.

July 23, 1894, Vance McClure, Iberia Parish, Attempted Rape, Black, Private.

September 9, 1894, Link Waggoner, Webster Parish, Murderous Assault, White, Private.

September 10, 1894, Robert Williams, Concordia Parish, Murder, Black, Unknown (Black).

November 9, 1894, Charlie Williams, West Carroll Parish, Murder and Robbery, Latino, Unknown.

November 9, 1894, Lawrence Younger, West Carroll Parish, Murder, Black, Unknown.

December 23, 1894, George King, St. Bernard Parish, Threat to Kill and Resisted Arrest and Shot at Whites, Black, Mass.

December 28, 1894, Scott Sherman, Concordia Parish, Brother of Murderer, Black, Posse (Possibly Black).

June 24, 1895, John Frey, Jefferson Parish, Arson, White, Private.

July 19, 1895, Ovide Belizaire, Lafayette Parish, Shot at Whites, Black, Terrorist.

September 18, 1895, Unidentified Man, Bossier Parish, Rape, Black, Mass.

September 21, 1895, Edward Smith, Tangipahoa Parish, Murder and Robbery, Black, Mass.

September 25, 1895, Aleck Francis, Jefferson Parish, Dangerous Character, Black, Private.

January 10, 1896, Abraham Smart, Ouachita Parish, Murder, Black, Unknown.

January 12, 1896, Charlotte Morris, Jefferson Parish, Miscegenation, Black, Private.

January 12, 1896, Patrick Morris, Jefferson Parish, Miscegenation, White, Private.

February 28, 1896, Gilbert Francis, St. James Parish, Rape and Burglary, Black, Private.

February 28, 1896, Paul Francis, St. James Parish, Rape and Burglary, Black, Private.

March 11, 1896, Bud Love, Morehouse Parish, Theft, Black, Private.

March 24, 1896, Louis Senegal, Lafayette Parish, Rape, Black, Private.

May 17, 1896, Unidentified Man, Bossier Parish, Insulted White Woman, Black, Posse.

May 19, 1896, James Dandy, St. Bernard Parish, Attempted Rape, Black, Private.

June 9, 1896, Wallis Starks, St. Mary Parish, Rape and Robbery, Black, Posse.

July 11, 1896, James Porter, Webster Parish, Murder, Black, Private.

July 11, 1896, Monch Dudley, Webster Parish, Murder, Black, Private.

July 24, 1896, Isom McGee, Claiborne Parish, Attempted Rape, Black, Unknown.

July 31, 1896, Louis Mullens, Avoyelles Parish, Attempted Rape, White, Private.

August 4, 1896, Hiram Weightman, Franklin Parish, Murder and Rape, Black, Mass.

August 8, 1896, Lorenzo Saladino, St. Charles Parish, Murder and Robbery, Italian, Mass.

August 8, 1896, DeCino Sorcoro, St. Charles Parish, Murder and Robbery, Italian, Mass.

August 8, 1896, Angelo Marcuso, St. Charles Parish, Murder and Robbery, Italian, Mass.

September 12, 1896, Jones McCauley, Ouachita Parish, Sexual Assault, Black, Unknown (Mixed or Black).

September 24, 1896, Jim Hawkins, Jefferson Parish, Assaulted Boy, Black, Private.

October 1, 1896, Lewis Hamilton, Bossier Parish, Arson, Black, Unknown.

December 22, 1896, Jerry Burke, Livingston Parish, Attempted Murder, Black, Posse.

January 17, 1897, Unidentified Man, Iberville Parish, Attempted Murder and Robbery, Black, Unknown.

January 19, 1897, Gustave Williams, Tangipahoa Parish, Murder, Black, Mass.

January 19, 1897, Archie Joiner, Tangipahoa Parish, Murder, Black, Mass.

January 19, 1897, John Johnson, Tangipahoa Parish, Murder, Black, Mass.

May 11, 1897, Charles Johnson, East Feliciana Parish, Attempted Trainwrecking, Black, Private.

July 21, 1897, Jack Davis, St. Mary Parish, Criminal Assault, Black, Posse.

September 28,1897, Wm. Oliver, Jefferson Parish, Ferry Law Violation and Dangerous Weapon Charge, Black, Private.

October 2, 1897, Wash Ferren, Ouachita Parish, Rape, Black, Mass.

October 15, 1897, Douglas Boutte, Jefferson Parish, Violated Quarantine and Resisted Arrest, Black, Private.

December 13, 1897, Joseph Alexander, Iberville Parish, Murder, Black, Mass.

December 13, 1897, Charles Alexander, Iberville Parish, Murder, Black, Mass.

Decmber 13, 1897, James Thomas, Iberville Parish, Murder, Black, Mass.

April 2, 1898, Wm. Bell, Tangipahoa Parish, Accessory to Murder, Black, Private.

April 23, 1898, Columbus Lewis, Lincoln Parish, Impudence to White Man, Black, Private.

June 4, 1898, Wm. Steake, Webster Parish, Rape, Black, Mass.

June 11, 1898, Unidentified Man, Morehouse Parish, Murderous Assault, Black, Posse.

November 3, 1898, Charles Morrell, St. John Parish, Robbery, Black, Private.

December 5, 1898, Bedney Hearn, Bossier Parish, Murder, Black, Unknown.

December 5, 1898, John Richardson, Bossier Parish, Murder, Black, Unknown.

June 14, 1899, Edward Gray, St. John Parish, Burglary, Black, Private.

July 11, 1899, George Jones, St. Charles Parish, Horse Theft, Black, Private (Black).

July 21, 1899, Joseph Cereno, Madison Parish, Shooting Man, Italian, Mass.

July 21, 1899, Charles Defatta, Madison Parish, Shooting Man, Italian, Mass.

July 21, 1899, Frank Defatta, Madison Parish, Shooting Man, Italian, Mass.

July 21, 1899, Joseph Defatta, Madison Parish, Shooting Man, Italian, Mass.

July 21, 1899, Sy Defrroch, Madison Parish, Shooting Man, Italian, Mass.

August 2, 1899, Man Singleton, Grant Parish, Attempted Rape, Black, Unknown.

Augsut 8, 1899, Echo Brown, Tangipahoa Parish, Unknown, Black, Unknown.

October 10, 1899, Basile LaPlace, St. Charles Parish, Political Causes and Illicit Liaison, White, Private.

October 15, 1899, James Smith, East Feliciana Parish, Cattle Rustling and Desperadoism, White, Private.

December 13, 1899, Unidentified Man, Morehouse Parish, Rape, Unknown.

April 21, 1900, John Humely, Bossier Parish, Conspiracy to Murder, Black, Mass.

April 21, 1900, Edward Amos, Bossier Parish, Conspiracy to Murder, Black, Mass.

May 12, 1900, Henry Harris, Rapides Parish, Attempted Criminal Assault, Black, Mass.

June 12, 1900, Ned Cobb, West Baton Rouge Parish, Murder, Black, Unknown.

June 23, 1900, Frank Gilmour, Livingston Parish, Murder, White, Private.

August 29, 1900, Thomas Amos, Rapides Parish, Murder, Black, Mass.

September 21, 1900, George Beckham, Tangipahoa Parish, Robbery, Black, Private.

September 21, 1900, Nathaniel Bowmam, Tangipahoa Parish, Robbery, Black, Private.

September 21, 1900, Charles Elliot, Tangipahoa Parish, Robbery, Black, Private.

September 21, 1900, Izaih Rollins, Tangipahoa Parish, Robbery, Black, Private.

October 19, 1900, Melby Dotson, West Baton Rouge Parish, Murder, Black, Mass.

January 24, 1901, Larkington, Webster Parish, Attempted Criminal Assault, Black, Unknown.

February 17, 1901, Thomas Jackson, St. John Parish, Murder, Black, Mass.

February 21, 1901, Thomas Vital, Calcasieu Parish, Criminal Assault, Black, Unknown.

February 21, 1901, Samuel Thibodaux, Calcasieu Parish, Defending Rapist, Black, Unknown.

March 6, 1901, William Davis, Caddo Parish, Rape, Black, Private.

May 1, 1901, Grant Johnson, Bossier Parish, Desperate Negro Gambler, Black, Private.

May 3, 1901, Felton Brigman, Caddo Parish, Rape, Black, Private (Black).

June 19, 1901, F.D. Frank Smith, Bossier Parish, Complicity in Murder, Black, Mass.

June 19, 1901, F.D. McLand, Bossier Parish, Complicity in Murder, Black, Mass.

July 15, 1901, Lewis Thomas, Richland Parish, Murderous Assault, Black, Unknown.

July 19, 1901, Unidentified Man, Acadia Parish, Homicide, Shot Officer, Black, Posse.

October 25, 1901, Wm. Morris, Washington Parish, Assault and Robbery, Black, Unknown.

November 2, 1901, Connelly, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Parker, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Low, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Connelly's Daughter, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Woman, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Child, Washington Parish, Threats Against Whites, Black, Posse.

November 2, 1901, Unidentified Person, Washington Parish, Threats Against Whites, Black, Posse.

November 24, 1901, Frank Thomas, Bossier Parish, Murder, Black, Mass (Black).

December 8, 1901, Sol Paydras, Calcasieu Parish, Assault, Black, Private.

January 25, 1902, Unidentified Man, West Carroll Parish, Murder and Theft, Black, Posse.

January 25, 1902, Unidentified Man, West Carroll Parish, Murder and Theft, Black, Posse.

January 25, 1902, Unidentified Man, West Carroll Parish, Murder and Theft, Black, Posse.

March 19, 1902, John Woodward, Concordia Parish, Murder, Black, Unknown.

March 31, 1902, George Franklin Carroll Parish, Murder Black, Posse Unknown.

April 12, 1902, Unidentified Man, Natchitoches Parish, Murder, Black, Unknown.

May 4, 1902, John Simms, Morehouse Parish, Complicity in Murder, White, Unknown.

May 9, 1902, Nicholas Deblanc, Iberia Parish, Attempted Rape, Black, Posse.

August 7, 1902, Henry Benton, Claiborne Parish, Criminal Assault, Black, Posse.

October 13, 1902, Unidentified Man, Calcasieu Parish, Attempted Murder, Black, Posse.

November 25, 1902, Joseph Lamb, West Feliciana Parish, Attempted Robbery and Criminal Assault, Black, Private.

January 26, 1903, John Thomas, St. Charles Parish, Murder, Black, Posse.

February 24, 1903, Jim Brown, Bossier Parish, Attempted Murder, Black, Posse.

March 27, 1903, Frank Robertson, Bossier Parish, Arson, Black, Unknown.

June 12, 1903, Frank Dupree, Rapides Parish, Murder, Black, Unknown.

June 25, 1903, Lamb Whitley, Catahoula Parish, Murderous Assault, Black, Unknown.

July 26, 1903, Jennie Steer, Caddo Parish, Murder, Black, Private.

October 18, 1903, George Kennedy, Bossier Parish, Attempt to Kill, Black, Posse.

November 2, 1903, Joseph Craddock, Bossier Parish, Murder, Black, Mass (Black).

November 30, 1903, Walter Carter, Caddo Parish, Murderous Assault, Black, Mass.

November 30, 1903, Phillip Davis, Caddo Parish, Murderous Assault, Black, Mass.

November 30, 1903, Clinton Thomas, Caddo Parish, Murderous Assault, Black, Mass.

January 14, 1904, Butch Riley, Madison Parish, Murderous Assault, Black, Unknown.

May 29, 1904, Frank Pipes, Rapides Parish, Shooting Man, Black, Private.

April 26, 1905, Richard Craighead, Claiborne Parish, Murder, White, Mass.÷

June 1, 1905, Henry Washington, Pointe Coupee Parish, Murder, Black, Posse.

August 12, 1905, Unidentified Man, Jackson Parish, Murderous Assault, Black, Posse.

November 26, 1905, Monroe Williams, Tangipahoa Parish, Criminal Assault, Black, Unknown.

February 24, 1906, Willis Page, Bienville Parish, Rape, Black, Mass.

March 18, 1906, Wm. Carr, Iberville Parish, Theft, Black, Private.

March 28, 1906, Cotton, West Carroll Parish, Attempted Criminal Assault, Black, Unknown.

May 6, 1906, George Whitner, East Feliciana Parish, Insulted White Woman, Black, Unknown.

May 22, 1906, Thomas Jackson, Caddo Parish, Robbery, Black, Private.

May 29, 1906, Robert Rogers, Madison Parish, Murder, White, Private.

July 11, 1906, Unidentified Man, Claiborne Parish, Attempted Criminal Assault, Black, Unknown.

August 26, 1906, Alfred Schaufriet, Ouachita Parish, Attempted Criminal Assault, Black, Posse.

November 25, 1906, Antone Domingue, Lafayette Parish, Fought Whitecappers, Black, Terrorist.

March 15, 1907, Flint Williams, Ouachita Parish, Murder, Murderous Assault, Robbery, Black, Unknown.

March 15, 1907, Henry Gardner, Ouachita Parish, Murder and Murderous Assault and Robbery and Rape, Black, Unknown.

April 16, 1907, Charles Straus, Avoyelles Parish, Attempted Criminal Assault, Black, Private.

April 18, 1907, Frederick Kilbourne, East Feliciana Parish, Attempted Rape, Black, Mass.

May 3, 1907, Silas Faly, Bossier Parish, Rape, Black, Unknown.

June 1, 1907, Henry Johnson, Rapides Parish, Attempted Criminal Assault, Black, Private.

June 8, 1907, James Wilson, Claiborne Parish, Attempted Criminal Assault, Black, Unknown.

June 27, 1907, Ralph Dorans, Rapides Parish, Rape, Black, Unknown.

June 28, 1907, Mathias Jackson, Rapides Parish, Rape, Black, Private.

December 5, 1907, Unidentified Man, Morehouse Parish, Murderous Assault, Black, Unknown.

December 15, 1907, Unidentified Man, Jackson Parish, Being an Italian Worker, Italian, Unknown.

December 15, 1907, Unidentified Man, Jackson Parish, Being an Italian Worker, Italian, Unknown.

February 6, 1908, Robert Mitchell, West Carroll Parish, Murder, Black, Mass.

June 4, 1908, Bird Cooper, Claiborne Parish, Murder, Black, Unknown.

July 16, 1908, Miller Gaines, Catahoula Parish, Arson, Black, Unknown.

July 16, 1908, Sam Gaines, Catahoula Parish, Arson, Black, Unknown.

July 16, 1908, Albert Godlin, Catahoula Parish, Inciting Arson, Black, Unknown.

July 26, 1908, Andrew Harris, Caddo Parish, Attempted Rape, Black, Private.

September 16, 1908, John Miles, Pointe Coupee Parish, Murderous Assault and Robbery, Black, Mass.

July 30, 1909, Emile Antoine, St. Landry Parish, Robbery and Shot White Man, Black, Private.

July 30, 1909, Onezime Thomas, St. Landry Parish, Robbery and Shot White Man, Black, Private.

September 6, 1909, Henry Hill, Franklin Parish, Attempted Rape, Black, Posse.

October 7, 1909, Ap Ard, St. Helena Parish, Murderous Assault, Black, Unknown.

October 7, 1909, Mike Rodrigauez, Vernon Parish, Robbery, White, Unknown.

October 28, 1909, Joseph Gilford, West Carroll Parish, Murder and Theft, Black, Mass.

October 28, 1909, Alexander Hill, West Carroll Parish, Murder and Theft, Black, Mass.

November 20, 1909, Wm. Estes, Richland Parish, Murder, Black, Posse.

November 27, 1909, Simmie Thomas, Caddo Parish, Rape, Black, Mass.
July 10, 1910, J.C. Freeman, Richland Parish, Murder, White, Private.
January 20, 1911, Oval Poulard, Evangeline Parish, Shot Deputy Sheriff, Black, Private.
July 24, 1911, Miles Taylor, Claiborne Parish, Murder, Black, Posse.
April 9, 1912, Thomas Miles, Caddo Parish, Insulted White Woman in Letters, Black, Private.
April 23, 1912, Unidentified Man, Richland Parish, Threats Against Whites, Black, Mass.
May 2, 1912, Ernest Allums, Bienville Parish, Writing Insulting Letters to White Women, Black, Private.
September 25, 1912, Samuel Johnson, De Soto Parish, Murder, Black, Private.
November 28, 1912, Mood Burks, Bossier Parish, Murderous Assault, Black, Private.
November 28, 1912, Jim Hurd, Bossier Parish, Murderous Assault, Black, Private.
November 28, 1912, Silas Jimmerson, Bossier Parish, Murderous Assault, Black, Private.
December 23, 1912, Norm Cadore, West Baton Rouge Parish, Murder, Black, Private.
February 14, 1913, Charles Tyson, Caddo Parish, Unknown, Unknown (Possibly Black).
August 27, 1913, James Comeaux, Jefferson Davis Parish, Assault, Black, Private.
October 22, 1913, Warren Eaton, Ouachita Parish, Improper Proposal, Black, Private.
December 16, 1913, Ernest Williams, Caddo Parish, Murder and Robbery, Black, Private.
December 16, 1913, Frank Williams, Caddo Parish, Murder and Robbery, Black, Private.
May 8, 1914, Sylvester Washington, St. James Parish, Murder, Black, Posse.
May 12, 1914, Earl Hamilton, Caddo Parish, Rape, Black, Mass.
August 5, 1914, Oli Romeo, St. Tammany Parish, Murder, Black, Mass.
August 6, 1914, Henry Holmes, Ouachita Parish, Murder, Robbery, Black, Private.
August 7, 1914, Dan Johnson, Ouachita Parish, Complicity in Murder, Black, Mass.
August 7, 1914, Louis Pruitt, Ouachita Parish, Complicity in Murder, Black, Mass.
August 9, 1914, Unidentified Man, Ouachita Parish, Murder, Black, Unknown.
December 2, 1914, Jobie Lewis, Caddo Parish, Murder and Robbery and Arson, Black, Private.
December 2, 1914, Elijah Durden, Caddo Parish, Murder and Robbery and Arson, Black, Private.
December 11, 1914, Charles Washington, Caddo Parish, Murder and Robbery, Black, Private.
December 11, 1914, Beard Washington, Caddo Parish, Murder and Robbery, Black, Private.
December 12, 1914, Watkins Lewis, Caddo Parish, Murder and Robbery, Black, Mass.
July 15, 1915, Thomas Collins, Avoyelles Parish, Murderous Assault, Black, Posse.
August 21, 1915, Bob, Red River Parish, Attempted Rape, Black, Unknown.
August 26, 1916, Jesse Hammett, Caddo Parish, Attempted Rape, Black, Mass.
November 15, 1916, James Grant, St. Landry Parish, Murder, Black, Private.
December 28, 1917, Emma Hooper, Tangipahoa Parish, Murderous Assault, Black, Unknown.
July 29, 1917, Daniel Rout, Tangipahoa Parish, Murder, Black, Private.
July 29, 1917, Jerry Rout, Tangipahoa Parish, Murder, Black, Private.
January 26, 1918, James Nelson, Bossier Parish, Living with White Woman, Black, Private.
February 26, 1918, James Jones, Richland Parish, Murder, Black, Unknown.
February 26, 1918, Wm. Powell, Richland Parish, Murder, Black, Unknown.
February 26, 1918, James Lewis, Richland Parish, Murder, Black, Unknown.
March 16, 1918, George McNeal, Ouachita Parish, Rape, Black, Private.
April 22, 1918, Clyde Williams, Ouachita Parish, Murderous Assault and Robbery, Black, Private.
June 18, 1918, George Clayton, Richland Parish, Murder, Black, Posse.
August 7, 1918, Bubber Hall, Morehouse Parish, Criminal Assault, Black, Unknown.
January 18, 1919, Henry Thomas, Red River Parish, Murder, Black, Posse.
January 29, 1919, Sampson Smith, Caldwell Parish, Murder, Black, Unknown.
February 14, 1919, Will Faulkner, Bossier Parish, Murder, Black, Private.
April 29, 1919, George Holden, Ouachita Parish, Wrote Insulting Note to White Woman, Black, Unknown.
August 26, 1919, Jesse Hammett, Caddo Parish, Attempted Rape, Black, Mass.
August 31, 1919, Lucius McCarty, Washington Parish, Attempted Rape, Black, Mass.
September 6, 1919, Unidentified Man, Morehouse Parish, Attempted Criminal Assault, Black, Private.
September 13, 1919, Unidentified Man, Catahoula Parish, Hiding Under Bed, Black, Unknown.
January 31, 1921, George Werner, Iberville Parish, Shot Man, Black, Unknown.
September 14, 1921, Gilmon Holmes, Caldwell Parish, Murder, Black, Unknown.
March 11, 1922, Brown Culpeper, Franklin Parish, Unknown, White, Unknown.
July 6, 1922, Joe Pemberton, Bossier Parish, Murderous Assault, Black, Unknown.
August 24, 1922, F. Watt Daniel, Morehouse Parish, Angered Klan, White, Unknown.
August 24, 1922, Thomas F. Richards, Morehouse Parish, Angered Klan, White, Unknown.
August 26, 1922, Thomas Rivers, Bossier Parish, Attempted Rape, Black, Private.
January 3, 1923, Leslie Leggett, Caddo Parish, Intimate with White Girl, Black, Private.
February 26, 1925, Joseph Airy, Bossier Parish, Murder, Black, Unknown.
August 4, 1926, Johnny Norris, De Soto Parish, Improper Advances to Girl, Black, Posse.
April 16, 1927, Willie Autrey, Calcasieu Parish, Peeping Tom, Black, Private.
June 2, 1928, Lee Blackman, Rapides Parish, Brother of Murderer, Black, Private.
June 2, 1928, David Blackman, Rapides Parish, Brother of Murderer, Black, Private.
February 19, 1933, Nelson Cash, Bienville Parish, Murder and Robbery, Black, Unknown.
August 26, 1933, John White, St. Landry Parish, Unknown, Black, Unknown.
September 11, 1933, Freddy Moore, Assumption Parish, Murder, Black, Unknown.
July 21, 1934, Jerome Wilson, Washington Parish, Murder, Black, Private.
October 13, 1938, W.C. Williams, Lincoln Parish, Murder and Murderous Assault, Black, Mass.
August 8, 1946, John Jones, Webster Parish, Intent to Rape, Black, Private.

Ms. LANDRIEU. It is also true that members of the Senate delegation from Louisiana participated in the actions that led us to not act.

However, I am very proud to stand here with my colleague from Virginia and to note that the other Senator from Louisiana, a Republican, stands with me. We are united in our support of this resolution to offer the sincere apology to try to bring to light the facts about lynching, to encourage people to seek the truth.

I said earlier today people are entitled to their own opinions. But they are not entitled to their own facts. And the facts about this terrible domestic terrorism and rash of terrorism stand today and will not be pushed aside. It is with humility but with pride that I support and put forth before the Senate today, with the Senator from Virginia, this resolution.

The junior Senator from Louisiana is an original cosponsor of this resolution, as are a number of sons of the South. Furthermore, in Louisiana's legislature in Baton Rouge, a very similar resolution passed today. Thus, the people of Louisiana can truly say we are trying to open a dialogue, and bring closure to a bitter history.

This is a particularly important step for the South. For while lynchings occurred in 46 of the 50 States, and people of all races were affected, it would be a mischaracterization to suggest that this was not a weapon of terror most often employed in the South, and most often against African Americans. That is why I am so glad to be joined in this endeavor by the junior Senator from Virginia, Mr. Allen. He has been instrumental in getting us to this point of consideration, and I truly appreciate his hard work and dedication to our joint effort.

It is also important to acknowledge the bravery of those who took personal risks long before this day in opposition to lynching. First and foremost, we must acknowledge the pioneering journalism of Ida B. Wells. Though personally threatened with death, Ms. Wells continued to document these outrages before justice, so that future generations might know the history of this era. It should be noted that it was her example that led other women, such as Jane Adams, to join in her fight against lynching. In fact, women, generally, are viewed as having played a major role in the antilynching campaign.

There was tremendous political courage shown in Georgia. Georgia was the first State to adopt antilynching legislation in 1893. Yet, the State continued to experience a disproportionate share of lynching attacks. However, starting with Governor Northen in 1890, several of Georgia's Governors fought lynch violence in their State resolutely. In many cases it came at personal cost. Gov. William Atkinson, having left the Governor's mansion, personally challenged a lynch mob of 2,000 people in his home town. It is a record of political leadership upon which Georgia can now proudly reflect.

Another great voice in the antilynching crusade was Congressman George White of Tarboro, NC. He was the last former slave to serve in Congress—ending his congressional career in 1901. He introduced an anti-lynching bill to stem the rising tide of violence, with 107 attacks having occurred in 1899. While his bill was defeated in the House of Representatives, he initiated one of its first political considerations.

Finally, we cannot ignore the Senate's own passionate voices to end the practice of lynching. Senator Champ Clark of Missouri famously posted photos of a recent Mississippi lynching in the Democratic cloakroom with the caption: There have been no arrests, no indictments, and no convictions of any one of the lynchers. This is not a rape case. Regrettably, those photos and his convictions could not bring these terrible events to a close. We also salute the efforts of Senators Robert Wagner of New York and Edward Costigan of Colorado. The Wagner-Costigan bill was yet another noble effort to inject Federal resources into combating lynching. While it was again filibustered, it was another noble effort that demonstrated that people of good will remained the majority.

Because of the courage of these and other individuals, by the 1930s public opinion had turned against lynching. In 1938, a national survey showed that 70 percent of Americans supported the enactment of an antilynching statute. Even in the South, at least 65 percent of these surveyed favored its passage. In short, even if southern Senators had the political latitude to endorse Federal antilynching legislation, most seemed to be too mired in personal prejudice to accept that fact. Where these southern Senators were concerned, justice was mostly deaf, but never color blind.

In closing, I would like to acknowledge several members of my staff: Jason Matthews, Kathleen Strottman, Nash Molphus, Sally Richardson, and many others, who have helped, along with others, put this resolution before the Senate today.

I want to end with one of the most moving comments that I read in the book ''Without Sanctuary,'' as I have read excerpts from publications and magazines and newspapers about this situation, and have been reading them now for months on this issue. It is taken from McClure's Magazine, in 1905, by Ray Stannard Baker, who wrote about one of the lynchings—I think it was of a Mr. Curtis. I will submit that for the RECORD. He says:

> So the mob came finally, and cracked the door of the jail with a railroad rail. The jail is said to be the strongest in Ohio, and having seen it, I can well believe the report is true. But steel bars have never yet kept out a mob; it takes something much stronger: human courage backed up by the consciousness of being right.

Mr. President, the Senate was wrong not to act. It was wrong to not stand in the way of the mob. We lacked courage then. We perhaps do not have all the courage we need today to do everything we should do, but I know we can apologize today. We can be sincere in our apology to the families, to their loved ones, and perhaps now we can set some of these victims and their families free and, most of all, set our country free to be better than it is today. However great it is, we can most certainly improve.

I yield the floor for my colleague, Senator ALLEN, from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise today to speak in support of the resolution of apology that Senator LANDRIEU of Louisiana and I have submitted. I thank the Senator from Louisiana for her leadership on this matter. It has been a pleasure to work with her on this and other matters, but this is undoubtedly the most historic.

I got involved in this because I received a letter from Dick Gregory. I know Members of the Senate received thousands of letters and e-mails and phone calls. He asked me to join with Senator LANDRIEU last year on this. He was signing this letter on behalf of Dr. E. Faye Williams, Martin Luther King III, Dr. C. DeLores Tucker, and others. But he asked me. He said:

> I respectfully ask you to serve as an original cosponsor of the Landrieu resolution. . . . We realize life will go on and your world will not be affected if you choose to do nothing.

That struck me as: Well, I am going to choose to do something. He asked me to sponsor this on the Republican side ''because it is the right thing to do.''

That says it all, really, when we see an affront to the basic principles that were enunciated in the spirit of this country in the Declaration of Independence. When we seceded from Britain, we talked about freedom, liberty, and justice, trying to constitute that here in this country, fighting for so many years to free ourselves from the monarch to construct a free and just society, with freedom of religion, freedom of expression, due process of law, equal protection, as well as the rule of law.

In so many of those key pillars of a free and just society, when one looks at what happened with the lynchings, the torchings, the whippings to death of people because of their race, because of their religion, because of their ethnicity, the cold-hearted hatred of it, and the countenance of it—and the fact that this wonderful Senate, with these historic desks where you can pull out drawers and see some of the great minds, the great orators of our history who had argued magnificently and inspiringly things on this Senate floor—you see there were times in our history when Senators ended up looking the other way. They did not take a stand. They turned their eyes, they turned their heads when something positive could have been done to disapprove, deplore, and obviously pass a law to make lynching a Federal crime.

This Chamber is part of our representative democracy. We are to represent the ''Will of the People.'' We are also to represent those foundational principles of our country. Unfortunately, that has not always occurred.

Daniel Webster, standing in the Old Senate Chamber, told his colleagues in 1834 that a ''representative of the people is a sentinel on the watchtower of liberty.'' Indeed, the Senate has been a great watchtower of liberty. Many individuals have been outstanding orators, brilliant men and women in the world's greatest deliberative body. Unfortunately, this August body has a stain on its history, and that stain is lynching. Americans died from hangings, from whippings, from a torch, from evil hearts outside of this Chamber.

Three-fourths of the victims of these injustices—and these have been documented and researched by the respected archives of the Tuskegee Institute—were perpetrated against African Americans. Mr. President, 4,749 Americans died by lynching, whipping, torturing, and mutilation, starting in 1882. Many times these lynchings were not lone acts by a few white men. Rather, they were angry gangs, as Senator LANDRIEU talked about. They were occasions, they were events, mobs who were whipped into frenzies by the skewed mentalities of what is right and what is wrong.

These cruel and unjust acts are so contrary to the rule of law, due process, and equal protection that we pride ourselves on in the United States. Again, three-quarters of the victims were African Americans. But this hatred also was perpetrated against those who are Asian, primarily Chinese; against American Indians; against Latinos; against Italians; and against people who are Jewish; and others who found themselves unprotected.

Mr. President, Senator LANDRIEU and I, as well as my colleagues who are joining us right now in the Chamber—Senator KERRY and Senator PRYOR—are rising this evening to make history, to try to right history. We are standing to give our heartfelt and formal apology, not for what anybody here presently in the Senate had done, but what this body, this continuous body, failed to do in the past. And it is an apology to all the victims and descendants of those who were lynched, who were whipped to death, who were torched to death, who were mutilated to death.

Many of the victims' descendants are currently watching in our gallery. This is a somber, not happy time but also one of reflection. It is one of the failures of the Senate to take action when action was most needed. It was a time where we were trying to make sure all Americans had equal opportunity. However, that clearly was not the case.

Senator LANDRIEU showed those photographs. These were vile killings. They captivated front-page headlines. They drew crowds with morbid curiosity and left thousands and thousands, mostly African Americans, hanging from trees or bleeding to death from the lashing of whips. By not acting, this body failed to protect the liberty of which Daniel Webster spoke.

One of those who suffered this awful fate was an African American named Zachariah Walker, from Coatsville, VA. In 1911, Walker was dragged from a hospital bed where he was recovering from a gunshot wound. Accused of killing a white man—which he had claimed was in self-defense—Walker was burned alive at the stake without trial.

Such horrendous acts were not just a regional phenomenon of the South. States such as Illinois, Ohio, Michigan, and even the Washington, DC area experienced this sort of mob violence and injustice. Lynching was not just a regional problem; it was a crime throughout our Nation, which occurred in 46 States of our country. It was because of the national scope of these atrocities that the Senate should act.

The Senate, of course, failed to pass any of the nearly 200 antilynching bills introduced in Congress during the first half of the 20th century. Three bills passed the House of Representatives, but they were filibustered on the Senate floor. In addition, seven Presidents had asked that such laws be passed.

One might ask: What impact would such a Federal law have had? Would that have saved all 4,749 people who were lynched, torched, mutilated, or whipped to death? Probably not in all cases because some had occurred before such bills were passed.

However, it would have sent a message, as it was read in newspapers across the land—whether in small towns, big cities, or in the country—that as a nation, we must stop such horrendous injustices being perpetrated on people, that we stand for the rule of law and equal protection and due process. By the Senate not acting, guess what message was sent. It sent the message that there are some people who may not think this is a good idea, that the Senate apparently condones it because they failed to act, notwithstanding the request of Presidents and the passage of such bills in the House of Representatives.

Why was Federal legislation needed? Because out of these 4,749 injustices of lynching, torching, and whipping, only 1 percent were prosecuted. In many cases, local authorities were complicit and involved in these cruel acts of injustice. Virginia was one of the States that actually passed an antilynching law which means that while there were 100 such lynchings, torchings, and burnings—and 100 is too many—compared to other States in the South, that was less. I have learned a lot since we introduced this bill. North Carolina's Governors, in the early 1900s, protested against such mob violence in their State and, therefore, they had less than in other States.

Another reason I got involved is to carry on the tradition of a man named Champ Clark, a Senator from Missouri whose son was actually one of my mentors when I first became involved in organized politics. He moved to the Charlottesville area when I was Governor, and I appointed him to the University of Virginia Board of Visitors. Sadly, he died a few years ago.

I found that his father, Senator Champ Clark of Missouri, posted photos—similar to those Senator LANDRIEU had—in our cloakrooms, of mutilated bodies. I will read from a document entitled, ''The U.S. Senate Filibusters Against Federal Anti-Lynching Legislation: The Case For A Formal Apology.'' It states:

Unlike in 1935, when senators killed anti-lynching legislation in just six days, the 1937–38 filibuster took six weeks. One reason: in April 1937, a Mississippi mob, in collusion with local law enforcement, removed two African Americans from their jail cells, whipped them with chains, gouged out their eyes with ice picks, and put them to death with acetylene blowtorches. Senator Champ Clark of Missouri posted photos of these victims' mutilated bodies in the Senate cloakroom with a caption, ''There have been No arrests, No indictments and No convictions for any one of the lynchers. This is NOT a rape case.

One month later, a mob in Georgia, consisting partly of women and teenage girls, forced its way into a funeral home and seized the body of a lynched twenty-four-year-old African American. After dumping the body into the trunk of a car and carrying it through town in a horn-blowing motorcade, the mob took it to a baseball field and burned it.

Horror-struck by these incidents, Senators sought to invoke cloture. If nothing else, they recognized that not only were African Americans in high lynch states at risk, but their own constituents were unprotected if they were black and traveling through these areas. Sadly, after courageously battling on the Senate floor for six weeks, they abandoned their effort to obtain cloture.

Six weeks with all this and no action. Historians will no doubt disagree as to a single reason why Senators blocked antilynching legislation in the 1920s through the 1940s. My desire is not to get into motivations. Regardless of their reasoning, one reason that I can see from all this is that there is no reason. There is no rationale. They were clearly wrong. They turned their eyes. They turned their heads. That is why it is so important that we set aside these hours to apologize for this lack of action by the Senate—because there was no reason. There was no tolerance. There was an acceptance and a condonation of vile, hate-filled activity.

Thankfully, justice in our Nation has moved forward and left such despicable acts history. In ignoring the protections of our Founding Fathers, that everyone is innocent until proven guilty, the Senate turned its back on our foundational principles of justice and freedom.

I look around the Chamber and note that all of us serve with a great deal of honor and integrity, and many have throughout our history.

As Ephesians teaches us: All things that are reproved are made manifest by light. This apology has been a long time in coming.

I thank my colleague, Senator LANDRIEU, for her tireless efforts in getting this resolution agreed to. I thank also leader FRIST for making the legislation a priority and taking time on the Senate schedule to recognize the significance of the moment.

I thank the cosponsors. We have nearly 80 cosponsors and will most likely have more by the end of the day. They recognized the importance of a resolution and knew that the Senate owed an apology to the victims of lynching, their families and descendants. I also thank James Allen, as Senator LANDRIEU has, for his authorship of ''Without Sanctuary: Lynching Photography in America,'' for bringing to us these horrendous, but important, issues and making us react, recognizing how violent and hate-filled they were.

I also thank Janet Langhart Cohen and Mark Planning for their spirited leadership and teamwork in getting support for this resolution. I want to share with my colleagues some excerpts from Ms. Cohen's comments.

While some members of the Senate question why so many of us have been seeking the passage of this official expression of apology at this time, the real question is why the Senate action was not forthcoming decades ago.

This is important for us to understand the meaning for those who are descendants of victims of lynching and torture and whipping.

She continues:

Consider the scope and depth of the crimes committed against humanity: more than four thousand men and women were hung from trees, many of them disembowled, their limbs and organs amputated, and then set on fire. These heinous acts . . . were designed to terrify African American citizens, remind them that they have fewer rights and protections than animals, and drive them from their land—all while serving as entertainment for white society.

The point is, this was to intimidate people.

Ms. Cohen says that she comes to the Senate today—she is in the gallery with many other descendants—for many reasons. She writes:

As a Black woman, as the spouse of a former Senator, and as one who had a family member lynched, I need to bear witness to an act of decency that has been deferred, indeed filibustered, for far too long.

We know she is here with many others and recognize that it has been filibustered far too long.

She also states that:

It's important to remind the American people about the evil chapters in our history. It is the reason we construct museums in Washington and beyond, to hold up for all to see how capable we are of descending into the heart of darkness. It's important for us to look back into the past so that we can pledge never again to allow racial hatred to consume our ideals or humanity.

President Bush, in his second inaugural address, stated:

Our country must abandon all habits of racism because we cannot carry the message of freedom and the baggage of bigotry at the same time.

She concludes with these statements:

An apology, I concede, will do nothing for the thousands of people who perished during what has been called ''the Black Holocaust.'' It cannot repair the battered souls of their survivors. It is, after all, only a symbolic act. Our symbols, however, the Eagle, Old Glory, Lady Liberty, to mention but a few, are but short hand narratives of who we are as Americans.

It is through an acknowledgment of the Senate's abdication of its duty to protect and defend the rights of all American citizens that, perhaps, we can begin to understand the pain and anger that still lingers in

the hearts and minds of so many who have been deprived of the equality promised in our Constitution.

My friend and mentor, Dr. Martin Luther King, Jr., once said that ''the arc of history bends toward justice.''

Today, as the Senate Members cast their historic votes, that arc dips closer to its destination.

Signed, Janet Langhart Cohen.

Mr. President, I ask unanimous consent that the full letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 13, 2005.

First, I want to commend Senators George Allen and Mary Landrieu for their leadership in introducing Senate Resolution 39 and for their persistence in bringing it to a vote today. I also wish to express my profound gratitude to Mark Planning who has been indefatigable in his quest for the passage of this measure.

While some members of the Senate question why so many of us have been seeking the passage of this official expression of apology at this time, the real question is why Senate action was not forthcoming decades ago.

Consider the scope and depth of the crimes committed against humanity: more than four thousand men and women were hung from trees, many of them disemboweled, their limbs and organs amputated, and then set on fire. These heinous acts, carried out and protected under the claim of ''states rights'' were designed to terrify African-American citizens, remind them that they had fewer rights and protections than animals, and drive them from their land—all while serving as entertainment for white society.

Picnics were even held by white communities so that those who claimed to be decent, law abiding citizens could witness and rejoice in the mutilation of those whose ancestors had been ripped from their homeland, separated from their families, sheared of their identities, brought in chains to America, and sold on the auction block as subhuman chattels.

It is inconceivable that any person of reason or conscience, of any faith, Christian or non-Christian, could possibly tolerate such barbarism, such a display of pure evil. But people did, of course. They tolerated it and sanctioned it, not during the Dark Ages, but during my lifetime. And those who sanctioned it were not uneducated barbarians; they included men who held positions of office and honor at all levels of government, including the United States Senate. The parliamentary delaying tactics that currently are the subject of so much debate took place in the nation's Capital, on the floor of this hallowed institution.

I have come to the United States Senate today for many reasons. As a Black woman, as the spouse of a former Senator, and as one who had a family member lynched, I need to bear witness to an act of decency that has been deferred, indeed filibustered, for far too long.

I am told that some members of the Senate are not prepared to support this measure because they think that an official apology is too trivial, meaningless and irrelevant to the times in which we live.

The passage of time can never remove the stain of institutionalized terrorism from our history or permit any public official to dismiss the pain of those who have lost family members to the savagery of lynch mobs as something unworthy of the Senate's agenda and deliberations.

It's important to remind the American people about the evil chapters in our history. It is the reason we construct museums in Washington and beyond, to hold up for all to see how capable we are of descending into the heart of darkness. It's important for us to look back into the past so that we can pledge to never again allow racial hatred to consume our ideals or humanity.

In his Second Inaugural Address, President Bush stated that, ''Our country must abandon all habits of racism because we cannot carry the message of freedom and the baggage of bigotry at the same time.'' These are noble words and they deserve to be acted upon as well as invoked.

Finally, let me say that this Resolution is but a first step in the process of educating the American people about our history; of not allowing this part of our past to be reduced to a footnote, or glossed over and air brushed into oblivion.

An apology will not erase the criminality that was once considered a cultural or regional privilege. An apology does not purport to serve as an absolution for the sins of the past.

An apology, I concede, will do nothing for the thousands of people who perished during what has been called, ''the Black Holocaust. It cannot repair the battered souls of their survivors. It is, after all, only a symbolic act. Our symbols, however, the Eagle, Old Glory, Lady Liberty, to mention but a few, are but short hand narratives of who we are as Americans.

It is through an acknowledgement of the Senate's abdication of its duty to protect and defend the rights of all of America's citizens, that, perhaps, we can begin to understand the pain and anger that still lingers in the hearts and minds of so many who have been deprived of the equality promised in our Constitution.

My friend and mentor, Dr. Martin Luther King, Jr. once said that, ''The arc of history bends towards justice.''

Today, as the Senate members cast their historic votes, that arc dips closer to its destination.

JANET LANGHART COHEN.

Mr. ALLEN. Mr. President, I am proud that this resolution will pass tonight. The Senate is going to be on record condemning the brutal atrocities that plagued our great Nation for over a century.

I will close with the words of our resolution:

Whereas, an apology offered in the spirit of true repentance moves the United States toward reconciliation and may become central to a new understanding, on which improved racial relations can be forged. Now, therefore, be it Resolved, That the Senate—

(1) apologizes to the victims of lynching for the failure of the Senate to enact anti-lynching legislation;

(2) expresses the deepest sympathies and most solemn regrets of the Senate to the descendants of victims of lynching, the ancestors of whom were deprived of life, human dignity, and the constitutional protections accorded all citizens of the United States; and

(3) remembers the history of lynching, to ensure that these tragedies will be neither forgotten nor repeated.

My colleagues, I ask you to join all of us in examining our history, learn from history, never again sit quietly, and never again turn one's head away when the ugly specter of racism, anti-semitism, hate, and intolerance rises again. It is our responsibility to stand strong for freedom and justice.

In the future, I am confident that this Senate will perform better than it has in the past. We will protect the God-given blessings of all people to life and liberty, regardless of their race, their ethnicity, or their religious beliefs. The Senate can do better; we have done better tonight. But the real measure of what we have learned when such acts occur in the future is, will this Senate rise and condemn it to protect those God-given liberties? I know that Senator LANDRIEU and I believe the Senate will rise appropriately.

Mr. President, with that, I ask unanimous consent that notwithstanding the previous agreement, the Senate now proceed to the vote on the pending resolution; I further ask unanimous consent that notwithstanding adoption of the resolution, the remaining time under the previous agreement remain available for Senators who wish to make statements, provided that any statements relating to the resolution appear prior to its adoption in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 39) was agreed to.

The preamble was agreed to.

Mr. ALLEN. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. What is the status of the time? Is it under control, or is it just open?

The PRESIDING OFFICER. The Senator from Virginia and the Senator from Louisiana control the time.

Ms. LANDRIEU. Mr. President, I will be happy to yield to the Senator from Massachusetts in just a moment. He has been very patient. As a cosponsor of the resolution that just passed, it is a privilege and it is appropriate for Senator KERRY to be one of the first Senators to speak upon its passage.

I wish to just mention very briefly, because I am not sure he is going to be able to stay with us much longer, Mr. James Cameron has been with us all day. Mr. Cameron is 91 years old. He lives in Marion, IN. In 1930, when he was 16 years old, a mob dragged him from a cell at Grant County Jail and put a rope around his neck. He was accused of a murder and a rape. He was nowhere around when it occurred. His associates, Abe Smith and Thomas Schipp, were both lynched that night. A man in the crowd spared him by proclaiming that he, in fact, was innocent and should be let go. He then went on to live an extraordinary life without bitterness, with a lot of love. He has been married for 67 years, has 4 children and multiple grandchildren. Senator Evan Bayh, who serves in this body—when he was Governor of Indiana, he pardoned Mr. Cameron. But he

is really the one who has forgiven us for what was done against him.

I yield the floor to Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I start by thanking Senator LANDRIEU and Senator ALLEN for their leadership on this effort and for all those descendants of families who have been absolutely extraordinary in the way in which they relived their pain, brought it to the public view, kind of laid their hearts out on the table in a very real and emotional way—that has been a wonderful part of this process—and the way in which the book Jimmy Allen put together has helped to unleash a pain that was never lost, never forgotten by anybody, but never quite had a place to play itself out—until this public effort that is being made by the Senate.

There is no small irony, I suspect, in the fact that the Senate is here sort of making good on what the Senate failed to do. I personally am struck by even, at this significant moment, the undeniable and inescapable reality that there are not 100 Senators as cosponsors. Maybe by the end of the evening there will be, but as we stand here with this resolution passed by voice vote, there are not.

Moreover, all the people in the Senate and the press understand how we work here. It is critical that we take the step we are taking and have taken, but at the same time wouldn't it have been just that much more extraordinary and significant if we were having a recorded vote with all 100 Senators recording their votes? We are not.

So even today, as we take this gigantic step, we are also saying to America that there is a journey still to travel. I don't want to diminish one iota—and I don't mean to because I believe what is happening here today is so significant, but at the same time, it has to give all of us a kind of kick in the rear end to get us out there to do that which is necessary, which gives fuller meaning to the words that are going to be expressed here and have been expressed here—most important, to give fuller meaning to the emotions that have been laid bare for all of America to understand better by the families who have come here to share this with us.

I also join not just in thanking Mr. Cameron and Ms. Johnson, and others, but Janet Langhart, who is here with our former colleague and the former Secretary of Defense, Bill Cohen. We certainly appreciate her commitment to this effort and the meaning of this to her and to all of the families who have come here together.

It is pretty incredible to think about it. Lynchings really replaced slavery. They came in the aftermath of slavery, around the 1880s. Between the 1880s and 1968—I have to pause when I think about that because I was already a young officer in the military. I had left college. I remember the early part of the 1960s devoted to the civil rights movement, the Mississippi voter registration drive. We were still recording lynchings during that period of time, but I did not know it, not in the sense that we know it today.

I thought I knew history pretty well, but I will tell you, until I saw this array of photographs which then sparked my curiosity to read more about it, I had always thought, like most Americans, that a lynching was just slinging a rope over a branch of a tree and that was it. The story is so much more gruesome than that, so much more dark and horrendous as a moment in American history that it is really hard to believe it happened at all in our country, which is another reason it is so important that we are taking this step to remember.

We have seen revisionism in almost every part of history, including the Holocaust. So it is good we are taking this step today, and it is good we have these photographs now brought together as a compilation of history, and it is good that the Senate is taking this effort tonight.

It is extraordinary to think that 99 percent of the perpetrators of lynchings escaped any reach of the law whatsoever. It is incredible to think that almost 5,000 people are recorded as incidents, and how many are not recorded? How many went without the local authorities in each of those communities—who were already complicitous in what happened, standing by, permissive, turning away from basic human rights—how many of those incidents were not recorded?

A lot of us have read a lot about World War II and the Holocaust and other moments of history where there is a knock on the door and life changes. But you have to stop and really think what it was like in all but four States in our country, not just for African Americans but for new people, for folks who had come here from other places to live the American dream. In some cases, they were not knocks, they were just angry mobs screaming and yelling with torches and running rampant through a household, dragging out people screaming. In other cases, there was a pretext, more polite, but it was never polite in what it ended up as.

Lynchings were not just lynchings; they were organized torture. They were incidents of kinds of torture that defied imagination, about which you do not even want to talk, the kinds of things that any decent society ought to stand up against. People were literally tortured for sport in front of people, and crowds would cheer—bedlam. Children were brought to be spectators. Some of these photographs show kids standing there with their eyes wide open and adults standing beside them, who were supposed to be more responsible, glued to the horror they were witnessing.

In the first half of the last century alone, in the 20th century, over 200 antilynching bills were introduced in the Congress—200. Three times, the House of Representatives passed antilynching legislation. Seven Presidents asked for this legislation to be passed. The Senate said no.

So it is important that we are here today to apologize. Some people wonder what the effect of an apology is. We can understand that question being asked. This is sort of a day of reckoning for us as a country, it is a moment for the conscience of our country to be listened to by everybody. It is an embarrassingly and unforgivably late moment in coming, but we are addressing a stain on our history, and we are working to heal wounds across generations. I believe that is important. Some people might try to diminish that, but the very lack of unity I mentioned earlier, in fact, goes to show why this apology is so important and why we all have to keep moving in this direction.

No words, obviously, are going to undo the horror of those 5,000 Americans losing their lives. No apology is going to just wipe away the memories of Mr. Cameron and others, though they have shown a greater graciousness of understanding than others even at this moment.

The fact is that this resolution can be one more step in the effort for all of us to try to get over the divide that still exists between races and as a result of Jim Crow in this country, but only if we face the truth. It is the Bible that reminds us that it is the truth that sets us free. And so it is that we have to embrace it, commit ourselves to putting our hearts and our actions where our words have now preceded us. This should be an important step forward, but, frankly, it will only do that if we do not stop here.

The truth is that it is not enough to face the horror of lynchings if we then just walk out of here and consciously turn away from legally separate and unequal schools in America. It is not enough to decry decades of refusing to use the force of law against lynchings if today we refuse to use the force of law to tear down the barriers that prevent people from voting, barriers in the economy, divisions in the health care system that works for too few of those who are in the minority in America.

It is only by reconciling the past that we have to understand where we have to go in the future and get there. I remind my colleagues to remember the words of Julian Bond when he dedicated that beautiful, simple memorial in Montgomery, AL, to those who gave their lives for civil rights. He said it was erected as much to remember the dead as it was for those young people who cannot remember the period when the sacrifices began, with its small cruelties and monstrous injustices, its petty indignities and its death dealing in inequities. There are many too young to remember that from that seeming hopelessness, there arose a mighty movement, simple in its tactics, overwhelming in its impact. That is why we have to remember the period

of the lynchings. That is why this resolution is important—for the young people who do not know what it means to wake up in the middle of the night to hear that knock, for young people to need to commit to help our country complete the journey in order to guarantee we make it all that it promises to be and can be.

We will never erase what Mr. Cameron or Mr. Wright and too many others went through, but we certainly can honor the legacy of these civil rights heroes and the martyrs who came before us by doing right by them and by the country. I hope this resolution will help us do that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I yield such time to the Senator from Illinois as he should use.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, I rise in strong support of this resolution. Before I make any further remarks, I would like to recognize Doria D. Johnson, and thank her for coming. She is from Evanston, IL. Ms. JOHNSON is the great, great-granddaughter of Anthony Crawford, a South Carolina farmer who was lynched nearly 100 years ago for the crime of being a successful Black farmer. I am sure that this day has special meaning for her, and for the other family members of those who were impacted by these great tragedies of the past. I thank her and others for being here today.

Since America's darkest days of Jim Crow, separate but equal, fire hoses, church bombings, cross burnings and lynchings, the people of this great Nation have found the courage, on occasion, to speak up and speak out so that we can right this country's wrongs, and walk together down that long road of transformation that continues to perfect our Union. It is a transformation that brought us the Civil Rights Act and the Voting Rights Act; a transformation that led to the first Black Member of Congress, and the first Black and White children holding hands in the same playground and the same school; a transformation without which I would not be standing here speaking today. But I am. And I am proud because, thanks to this resolution, we are taking another step in acknowledging a dark corner of our history. We are taking a step that allows us—after looking at the 4,700 deaths from lynchings, the hate that was behind those deaths, and this Chamber's refusal to try and stop them—to finally say that we were wrong.

There is a power in acknowledging error and mistake. It is a power that potentially transforms not only those who were impacted directly by the lynchings, but also those who are the progeny of the perpetrators of these crimes. There is a piercing photographic exhibit in Chicago right now that displays some of the lynchings that occurred across the country over the past two centuries. These photographs show that what is often most powerful is not the gruesome aspects of the lynching itself, nor the terrible rending of the body that took place. No, what is most horrific, what is most disturbing to the soul is the photographs in which you see young little White girls or young little White boys with their parents on an outing, looking at the degradation of another human being. One wonders not only what the lynching did to the family member of those who were lynched, but also what the effect was on the sensibilities of those young people who stood there, watching.

Now that we are finally acknowledging this injustice, we have an opportunity to reflect on the cruelties that inhabit all of us. We can now take the time to teach our children to treat people who look different than us with the same respect that we would expect for ourselves. So it is fitting, it is proper, and it is right that we are doing what we are doing today.

However, I do hope, as we commemorate this past injustice, that this Chamber also spends some time doing something concrete and tangible to heal the long shadow of slavery and the legacy of racial discrimination, so that 100 years from now we can look back and be proud, and not have to apologize once again. That means completing the unfinished work of the civil rights movement, and closing the gap that still exists in health care, education, and income. There are more ways to perpetrate violence than simply a lynching. There is the violence that we subject young children to when they do not have any opportunity or hope, when they stand on street corners not thinking much of themselves, not thinking that their lives are worth living. That is a form of violence that this Chamber could do something about.

As we are spending time apologizing today for these past failures of the Senate to act, we should also spend some time debating the extension of the Voting Rights Act and the best way to extend health care coverage to over 45 million uninsured Americans. We should be considering how we can make certain that college is affordable for young African-American children, the great, great-grandchildren or the great, great, great-grandchildren of those who have been wronged. These are the ways we can finally ensure that the blessings of opportunity reach every single American, and finally claim a victory in the long struggle for civil rights.

Today is a step in the right direction. Today's actions give us an opportunity to heal and to move forward. But for those who still harbor anger in their hearts, who still wonder how to move on from such terrible violence, it is worth reflecting for a moment on one remarkable individual: Mamie Till Mobley.

Mamie Till Mobley's child Emmett was only 14 years old when they found him in the Mississippi River, beaten and bloodied beyond recognition. After Ms. Mobley saw her child, her baby, unrecognizable, his face so badly beaten it barely looked human, someone suggested that she should have a closed casket at his funeral. She said: No, we are going to have an open casket, and everybody is going to witness what they did to my child.

The courage displayed by this mother galvanized the civil rights movement in the North and in the South. And, despite the immensity of the pain she felt, Mamie Till Mobley has repeatedly said: I never wasted a day hating. Imagine that. She never wasted a day hating, not one day.

I rise today, thanking God that the United States Congress—the representatives of the American people and our highest ideals—will not waste one more day without issuing the apology that will continue to help us march down the path of transformation that Mamie Till Mobley has been on her whole life, and that the people in attendance in the gallery have been on for generations.

I am grateful for this tribute, and I am looking forward to joining hands with my colleagues and the American people to make sure that when our children and grandchildren look back at our actions in this Chamber, we do not have something to apologize for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I join my colleagues today to talk about one of our Nation's darkest periods, a stain in history we would rather forget but that we cannot ignore. While White mobs committed 4,742 hangings, floggings and burnings of African Americans, the Senate watched indifferently, failing to pass any of the 200 separate bills before it to make lynching a Federal crime. S. Res. 39, expressing the Senate's apology for failing to adopt antilynching legislation, is long overdue. I express my sincere apologies and regret to the families in Arkansas and the Nation, especially to the victims and their descendants, that this body failed to help at a time when they needed it most.

I hope that acknowledging these grave injustices of the past will help begin to heal the wounds that exist today. Even more so, this acknowledgement should serve as a lesson that government must step in to help foster racial reconciliation, ensure the mob mentality never returns, and protect those who are most vulnerable.

The Senate can start by continuing to advance civil rights and equality, and work to close the divide that continues in our neighborhoods, schools and workplaces. I am afraid that if we don't start truly addressing inequities we will look back once again at the Senate's inaction with disdain and remorse.

Most of the worst offenses of lynching occurred in the south and Arkansas was no different. Between the years

1860–1936, 318 lynchings occurred in Arkansas. Of this number, 230 were black, including 6 females. Three-quarters of the lynchings in our State that are recorded were against African Americans.

Of course, statistics don't have a face, they don't feel pain, nor do they hold memories. But people and families all over Arkansas do, and they remember these crimes and the Senate's inaction to protect them.

In March 1892, a reporter from the Christian Recorder reported the chaos and hopelessness occurring throughout the state:

> There is much uneasiness and unrest all over this State among our people, owing to the fact that the people all over the State are being lynched upon the slightest provocation; some being strung up to telegraph poles, others burnt at the stake and still others being shot like dogs.
>
> In the last 30 days there have been not less than eight colored persons lynched in this State. At Texarkana a few days ago, a man was burnt at the stake.
>
> In Pine Bluff a few days later two men were strung up and shot, and this too by the brilliant glare of the electric lights. At Varner, George Harris was taken from jail and shot for killing a white man, for poisoning his domestic happiness.
>
> At Wilmar, a boy was induced to confess to the commission of an outrage, upon promise of his liberty, and when he had confessed, he was strung up and shot. Over in Lonoke County, a whole family consisting of husband, wife and child were shot down like dogs. Verily the situation is alarming in the extreme.

There were few honest press accounts of such lynchings, a problem that continues to trouble historians today as they put together the pieces of this period. Most Arkansas press accounts were no different. Lynchers were considered heroes, officers conniving, and the accused guilty.

A case in point:

In 1919, Arkansas would be home to a terrible racial injustice—the so-called Elaine Race Riot.

According to sketchy accounts that have been pieced together by historians, in September 1919, black sharecroppers met to protest unfair settlements for their cotton crops from white plantation owners. Local law enforcement broke up the union's meeting, and the next day a thousand white men, and troops of the U.S. Army, converged on Phillips County to put an end to the black sharecroppers' so-called ''insurrection''.

The number of African-American deaths from this lynching is disputed, ranging from 20 at the low end to 856 men and women on the high end.

The details of the Elaine Race Riot of 1919 have never been formally written down, but Mayor Robert Miller of Helena, AR remembers them vividly.

At the time, Mayor Miller's four uncles were preparing for a hunting trip. Three of them had traveled to a town near Elaine, Helena, AR, for this special occasion, which turned tragic when a mob saw the brothers with guns in hand, and assuming they were part of the ''insurrection,'' all four were immediately killed.

Of the anti-lynching legislation we are considering today, Mayor Miller says, ''It won't change what happened, but at least it's a good thing, a movement in the right direction.''

A 2000 article from the Arkansas Times reports on Arkansas' most high-profile lynching and the lasting impact it has had on families in Arkansas today.

In May 1927, a mentally retarded black man named John Carter was accused of attacking a white mother and daughter. Upon his capture near Little Rock a mob of 100 quickly gathered and prevented police from taking him to Little Rock, where police would protect him from being lynched.

After hanging him from a utility pole, the mob dragged John Carter's body through the city, and burned it in downtown Little Rock at 9th and Broadway.

The Arkansas Times article recounts a conversation that occurred 30 years later, in September 1957 of a mother talking to civil rights pioneer Daisy Bates about the John Carter lynching. The mother had this to say:

> I am frightened Mrs. Bates. Not for myself, but for my children. When I was a little girl, my mother and I saw a lynch mob dragging the body of a Negro man through the streets of Little Rock. We were told to get off the streets. We ran. And by cutting through side streets and alleys, we managed to make it to the home of a friend.
>
> But we were close enough to hear the screams of the mob, close enough to smell the sickening odor of burning flesh. And, Mrs. Bates, they took the pews from Bethel Church to make the fire. They burned the body of this Negro man right at the edge of the Negro business section.

The woman speaking to Daisy Bates was named Birdie Eckford. Her daughter Elizabeth, one of the Little Rock Nine, would walk through an angry, threatening crowd the following day to claim her right to an equal education at Little Rock Central High School.

Little Rock Central High School today reminds us of some of the darkest days during the civil rights movement. As a former student, however, I can tell you that it also represents hope and achievement.

The year 2007 will mark the 50th anniversary of the desegregation process at Little Rock Central High School. Last Friday, I spoke with seven members of the Little Rock Nine to tell them that we are closer to funding an adequate visitor center and museum in time for his landmark anniversary.

Minnijean Brown Trickey, one of the Nine, said this Visitors' Center will serve many purposes, but what struck me was her assurance that the Center ''is an opportunity for healing.''

Today's resolution offers similar opportunities. It allows us to remember the past, begin healing from that past, look at how far our Nation has come to address equality and discrimination and rededicate ourselves to acknowledging how much further we must go from here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise this evening to speak in support of S. Res. 39, apologizing for the Senate's failure to enact antilynching legislation. It is important for us to reflect on the statements that have been made by my colleagues, including the distinguished Senator from Louisiana and the distinguished Senator from Virginia, so that we can remember the history of this country and how America has been an America in progress. The past can be painted in statistics or it can be painted in the stories of people who have suffered from the unjust result of the absence of an antilynching law.

We can speak about the time between 1882 and 1968 when there were nearly 5,000 lynchings. These lynchings that occurred were not lynchings that occurred just in the southern part of the United States of America but happened throughout most of the States of our country, including in my own home State of Colorado, where a historian has in his own research concluded that there were about 175 lynchings in Colorado between 1859 and 1919.

It is appropriate and fitting that today we apologize for the absence of those laws, that we recognize people like James Cameron who became a survivor of the lynchings of that time period, recognize that this Senate today says we apologize for that past.

It is perhaps even more important to look to the future of America and to look at the racial issues and the challenges we face as a nation to create an America that truly is an America of inclusion. It is one thing to stand in the Chamber of the Senate today, to look at our history, and to learn from that painful history, but it is equally as important to look to the future and to recognize the challenges we face in this America in the decade ahead, and the 100 years ahead require us to learn from those very painful lessons of the past.

When one looks at those very painful lessons of the past, we have to recognize for the first 250 years of the beginnings of this Nation we had a system of law that recognized it was OK for one group of people to own another group of people under our system of slavery just because of the color of their skin. It is important for us, also, to recognize that it took the bloodiest war of the United States during the Civil War, for over half a million people were killed on our own soil in America to bring about an end to the system of slavery and to usher in the 13th, 14th, and 15th amendments which are the bedrock of the constitutional liberties we now endow upon all people of America.

Notwithstanding the fact that in that time period of the Civil War we saw the blood and life of so many Americans laid down in this country, we still continued through another period of almost 100 years where we divided our

Nation according to groups. It was over 100 years ago when Justice Harlan, writing for the dissent in the now famous case of Plessy v. Ferguson, made the following observation, disagreeing with the U.S. Supreme Court on the segregation system which was ushered in under that decision, saying:

The destinies of the races, in this country, are indissolubly linked together and the interests of both require that the common government law shall not permit the seeds of race hate to be planted under the sanction of law.

That was over 100 years ago. Yet it took more than half a century, until 1954, in the decision of Brown v. Board of Education, for the U.S. Supreme Court under the leadership of Justice Warren to say in these United States, separate but equal was unconstitutional under the 14th amendment. It took more than half a century more for the U.S. Supreme Court to make that statement.

So when we look to the future of America, when we look to the diversity that defines our country, it is my belief that this next century will be defined by how we as an American society embrace the concept of an inclusive America. When we embrace a concept of an inclusive America, we talk about including people of all backgrounds—be they Anglo Americans, French Americans, African Americans, Latinos, Native Americans, women—that we as an American society will be challenged in the century ahead by how we deal with the issue of inclusion, and the greatness of this country will be defined by how successful we are in making sure we are inclusive of all people.

There are some who have recognized this. Justice Sandra Day O'Connor, in writing for the U.S. Supreme Court in the now famous decision of the University of Michigan from several years ago, made the following comment about the importance of diversity in higher education in the majority opinion:

These benefits are not theoretical but real, as major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.

That was from the brief submitted by General Motors. She went on to say:

What is more, high-ranking retired officers and civilian leaders of the United States military assert, based on their decades of experience, a highly qualified racially diverse officer corps is essential to the military's ability to fulfill its principal mission to provide national security.

It was in that articulation by Justice Day O'Connor, where she articulated the challenge and the opportunity that we have as an American society, the 21st century unfolds in front of us.

In my estimation, the greatness of this country depends on our learning and not forgetting the painful lessons of the past, including the lynchings that occurred across America, while also looking forward to the challenge of including people of all backgrounds and all races in all of the business affairs and civic affairs of this Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I am very glad we are passing this resolution. There have been attempts in the past by other Members of Congress, such as my good friend, the former Congressman Tony Hall of Ohio, who had tried several years back to get a resolution of apology with regard to slavery. They never could work out all the details. I am very glad the Senate has come to this point that it could critique itself for this legislative body's failure to enact antilynching laws back at a time when it would have been so important to stop these kinds of mayhem and murderous rampages where mobs would take, supposedly, justice into their own hands.

Thank goodness we have come to a point at which we can admit our mistakes, even though this is several generations later, and pass such a resolution as we will do tonight.

Interestingly, one of my political heroes is a person who Americans rarely hear about. He was a British Parliamentarian in the late 1700s and the early 1800s named William Wilberforce. Wilberforce was elected to the Parliament at the age of 21 along with one of his best friends, William Pitt, the Younger. And in 3 years, at age 24, Pitt was elected Prime Minister. Of course, Wilberforce could have been in his Cabinet. But at that point Wilberforce had recognized the great evil of the day and dedicated his life to the elimination of the economic order of the day, which was the English slave trade where the captains would take the boats down off the coast of Africa under the guise of friendship, round up native Africans, put them in the holds of those slave ships, and take them to the New World and sell them.

Wilberforce is a hero to me because, as a government official, a member of Parliament, he would not even join William Pitt, the Younger's Cabinet. He wanted to devote his life to the elimination of the slave trade. It took him 20 years to do it. Time after time, he was beat back, but he persevered, and he finally won, 20 years later. Then, before Wilberforce died, he saw that Parliament actually abolished slavery. That was some 30 years before slavery was abolished here in America.

So it is a privilege for me to be here at long last to join our colleagues to apologize for the Senate's failure in the 1930s to pass legislation outlawing the barbaric practice of lynching. For more than a century, this country presented two realities to its citizens. Enshrined in our Constitution is a government and a legal system designed to protect the rights of all Americans so that our freedom cannot be taken away or infringed upon without due process of law. But for many decades, however, this system of justice and respect for the rule of law did not apply to all of the citizens of this country.

In 1857, in the Dred Scott Supreme Court decision, that guarantee in the U.S. Constitution that all men are created equal was not intended to include Blacks by that decision. For many years later, Black Americans found few protections in the constitutional guarantees of liberty and freedom and equal protection under the law. A Black man accused of a crime against a White person found that he had no access to the courts to prove his innocence, he had no access to a fair and impartial jury of his peers. All too often, White citizens, armed with guns and feelings of righteousness, would take the accused, as law enforcement officers stood by, and brutalize them and hang them in a public setting for other members of the community to view and feel avenged. How horrible would that be, a public spectacle that was supposed to intimidate, that was supposed to strike fear. Did it? You bet it did. It was meant to send a message to the members of the Black community that they better remain in their place, to remember that the guarantees of freedom and fairness in the Constitution did not include them.

In my State of Florida, there were 61 lynchings of Black Americans between 1921 and 1946, which, of course, represents only a fraction of the total number that were committed in my State. There is no justification or explanation for these horrible acts of violence. As a nation that respects the rule of law and court-prescribed justice, what happened was vigilantism and mob rule. That is what determined ''justice.'' And that is never justifiable.

There is a place in Florida called Rosewood. It was the site, in the 1920s, of what many describe as a massacre. That Black community was destroyed by Whites. No arrests were ever made in as many as 27 racial killings in that location.

Florida finally passed the Nation's first compensation for Blacks who suffered from those past racial injustices. It was all directed back to the massacres that had occurred at Rosewood, FL. The 1994 Florida Legislature passed the Rosewood Claims Bill to compensate victims for loss of property as a result of the failure to prosecute those individuals responsible. I felt as a Floridian that this acknowledgement was long overdue, and it made me proud to see, at long last, that we addressed the tragedy of Rosewood.

Now, as a Member of the Senate, I believe this resolution we are passing tonight is long overdue. In being proud of this event, I am also humbled to stand up as a Member of the Senate and to personally apologize for the Senate's failure to act—a failure to outlaw barbaric acts such as lynchings and racial massacres.

I am proud, too, that we can today reaffirm that we are a nation of laws designed to protect the freedom and liberty of all Americans—all Americans—regardless of race.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, this is an issue that will be considered by the Senate later this evening, an issue of historic importance. It will be an official apology by the Senate for the Senate's failure to protect victims of lynching in America.

Fifty years ago, on August 20, 1955, a Chicago woman named Mamie Till took her 14-year-old son Emmett to the 63rd Street Station in Chicago to catch the southbound train to Mississippi. Emmett was going to spend the summer with his great uncle and aunt in a town called Money, MS, in the heart of the Mississippi Delta.

The next day, August 21, 1955, young Emmett Till arrived in Mississippi. He spent the next few days helping out around the house, working with his great uncle, Moses Wright, in the cotton fields.

On August 24, after a long day of working in the fields, Emmett and a group of teenagers went into town to Bryant's Grocery Store for some refreshments. The store—owned by a White couple named Roy and Carolyn Bryant—served primarily Black workers, sharecroppers, and their kids. Emmett went into Bryant's Grocery Store to buy some bubble gum. Some kids who were hanging out outside the store accused Emmett of whistling at Carolyn Bryant, one of the proprietors of the store.

Four days later, on August 28, Carolyn Bryant's husband and his half brother went to Moses Wright's home at 2:30 in the morning. They kidnapped young Emmett Till from his bed, and they committed one of the most notorious and horrific lynchings in American history. They brutally beat this young man from Chicago, IL, Emmett Till. They gouged out his eyes, they shot him in the head, they tied a large metal fan around his neck with barbed wire, and they threw his mangled, dead body into the Tallahatchie River.

A few days later, his broken and bloated body was found floating in the river. Emmett Till was returned to his mother in Chicago in a coffin. On September 3, 1955, Mamie Till held a historic funeral for her son at Roberts Temple Church of God in Chicago. She did a courageous thing: She directed that the casket remain open so that everyone could see what hatred and racism had done to her little boy.

Tens of thousands of Chicagoans came to say goodbye to 14-year-old Emmett Till, a young man who just a few weeks before got on that train to visit his family in Mississippi. News coverage of that funeral reached millions more around the world. Jet Magazine made a historic decision: They decided to print actual photographs of Emmett Till's mutilated body lying in the casket and cover his funeral. The decision by that magazine and the publicity that came with Emmett Till's tragic death changed people across America. I cannot tell you how many African Americans I have met who said that the world changed after the murder of Emmett Till. They came to realize that what happened to him should not be allowed to happen in America.

One of my favorite friends in Congress, one of my heroes of all time, is a man named JOHN LEWIS. He represents Atlanta, GA, as a Member of the House of Representatives. He was one of the pioneers in the civil rights movement. He was 15 years old, 1 year older than Emmett Till, growing up in Alabama, when he saw those photographs of this young man. Like millions of African Americans, JOHN LEWIS was haunted by the image. He told a Washington Post reporter recently: I remember thinking it can happen to anyone, me or my brothers or my cousins. It created a sense of fear that it could happen to anyone who got out of line.

Those images of Emmett Till inspired more than fear. In many people, they inspired courage and resolve. There was a decision made by so many at every level of life in America to no longer ever tolerate the brutal inhumanity of hatred and racism of Jim Crow laws. When Rosa Parks, the legendary civil rights leader, refused to give up her seat on that bus in Montgomery, AL, it was 100 days after Emmett Till's murder. She said, when asked later: How did you show the strength to do that, stand up against everybody and say, no, I will not sit in the back of the bus, she said she got her courage by thinking of that young man, Emmett Till.

Eight years later, in a song entitled ''The Murder of Emmett Till,'' the great poet/songwriter Bob Dylan had the following lyrics:

If you can't speak out against this kind of thing,
a crime that's so unjust,
your eyes are filled with dead men's dirt,
your mind is filled with dust.

Today, 50 years after Emmett Till's brutal murder, the Senate will formally and officially offer apologies to not just the families of Emmett Till but the nearly 4,800 other Americans who died at the hands of lynch mobs in our country, in this great Nation of America, between 1882 and 1968. We offer our apologies as well to the countless millions of Americans who were forced to live with the fear that they could be the next victim.

Emmett Till's cousin, Simeon Wright, was lying next to Emmett the night he was kidnapped and lynched. Simeon Wright is with us today. Doria Johnson, from Evanston, IL, also is with us today. Her grandfather, Anthony Crawford, was lynched by a White mob in Abbeville, SC, in 1916. He was beaten, hanged, and shot more than 200 times. What kind of offense would merit that kind of punishment? What had Anthony Crawford done? Anthony Crawford, in 1916, in South Carolina, a Black man, got into an argument with a White man over the price of cotton seed at a store.

To them and to all who lost a loved one to lynching and to those who lost a piece of their own childhood and their own sense of security, we say today formally and officially in the Senate that we were wrong—wrong for failing to protect them, wrong because we never said we were sorry.

The murders of Emmett Till and Anthony Crawford are among those documented in a groundbreaking book and museum exhibit called ''Without Sanctuary: Lynching Photography in America.'' The exhibit has traveled all over the United States and opened just last week at the Chicago Historical Society.

Mr. President, just a few days ago, the Chicago Sun-Times did an editorial on this issue of lynching and this exhibit. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, June 12, 2005]

EXHIBIT OF LYNCHING PHOTOS SHOWS EVIL WE MUST REMEMBER

The Chicago Historical Society's ''Without Sanctuary: Lynching Photography In America'' seems an unlikely exhibition to launch in a Northern city. But the link between Chicago and ''murder by a mob of an individual outside the confines of the legal system,'' a definition that comes halfway through the exhibit, is long-standing. It has been 50 years since Chicagoan Emmett Till was lynched in Mississippi. That case is still with us.

Till's murder, for allegedly whistling at a white woman, shocked an entire nation and sparked the civil rights movement in the North, but lynching had gone on for decades. Journalist Ida Wells-Barnett was crusading against it in 1892 when three successful black businessmen were lynched. Through her fearless reporting, Barnett established that lynching was not the white man's response to a black man's abuse of white women, but that most lynchings were caused by ''economic competition and racial hatred.''

In 1893, Barnett stood outside the Chicago World's Fair and protested the exclusion of African Americans, while handing out copies of her pamphlet: ''Southern Horrors: Lynch Law in All Its Phases.'' Still, except for protest art such as Claude McKay's ''The Lynching'' and Billie Holiday's ''Strange Fruit,'' the sadistic killing of black Americans has mostly been hidden from America's mainstream.

The Chicago Historical Society's exhibit will change that. And it strikes us as fitting that photographs and documents, many of which are on loan from private collections, have ended up here. Although the re-opening of the Till murder case has sparked new interest in this subject, many young Chicagoans probably do not know how widespread this crime was or that it occurred outside of the South in places such as Downstate Cairo.

''No part of the nation was immune,'' as the exhibit recalls with a quotation from W.E.B. Du Bois. ''We must remember because if the world forgets evil, evil is reborn.''

The 53 images of lynchings that took place between 1870 and 1961 constitute a shocking testament to America's shame. The lynching exhibition runs through Dec. 4. Don't miss it.

Mr. DURBIN. Mr. President, this editorial from the Chicago Sun-Times urges people to attend the exhibit and notes that ''many young Chicagoans probably do not know how widespread this crime was or that it occurred outside of the South in places such as

downstate Cairo,'' IL. That is an important point. Lynching was not just a southern shame, it was an American shame. While most lynchings occurred in the South, they also happened in the North.

I commend Senators MARY LANDRIEU and GEORGE ALLEN for authoring this resolution and working so hard to have the Senate take it up and right this historical wrong. It is my hope the Senate will match the words of this resolution with action. It is not enough to apologize for the failure of our predecessors to protect their fellow citizens from violent prejudice. We have a responsibility to protect those who are targets of today's hate crimes as well. Senator TED KENNEDY, a Democrat, and Senator GORDON SMITH, a Republican, have been trying for years to persuade Congress to pass a new, stronger Federal hate crimes bill. Year after year, they have met with resistance.

Listen to the arguments of those who oppose a stronger hate crimes bill today, and you hear the same arguments that were made against a Federal antilynching bill decades ago. The names have changed, the arguments and the excuses are the same.

They say we in Congress cannot pass a strong hate crimes bill because it will infringe on States rights or because the Constitution does not give Congress explicit authority to pass such a law.

Listen to what a Member of the House of Representatives, James Woods of Virginia, said in 1922:

> This bill, commonly known as the ''antilynching bill'' would be described more accurately if designated—from the standpoint of its effects rather than from its purpose—as a ''bill to override the Constitution of the United States, to foment race hatred, and to revive sectional animosity.'' If it were possible to put an end to lynching by a lawful act of Congress, none would support such legislation more earnestly than we of the South.

The Constitution does not say anything explicitly about the Civil Rights Act, which the Senate passed 41 years ago, or the Voting Rights Act, which turns 40 today. There always will be political voices that will find excuses to delay acting on the moral challenges of our time.

Finding the moral courage to deal with those challenges in our own time is the real test of leadership. What is it we are doing or failing to do today that would lead the Senate 50 years from now to apologize? That is the question.

I hope Congress will pass the Kennedy-Smith hate crimes bill as tangible proof to the victims of lynching that we will never again withhold our protection when Americans are persecuted and killed simply for being who they are.

When Mamie Till put her son on that train for Mississippi, he was wearing a watch he had been given by his father before his father died. The hands on that watch stopped when Emmitt Till was tortured and murdered.

Much has changed in the 50 years since Emmitt Till died, but some small part of America's soul has always remained frozen in that time because of our failure to formally acknowledge that what happened was wrong. By apologizing to the victims of lynching—and by having the courage to protect the victims of hate crimes today—we can reclaim that piece of our soul and move forward in time as one Nation indivisible.

Mr. LEVIN. Mr. President, the opportunity has finally come to make the record right—to begin to balance what has been an imbalance. We have come to this floor to apologize for the silence of the U.S. Senate regarding the lynching of our fellow Americans, primarily African Americans.

Tonight, we begin to redress the lynching madness that swept our country from the 1880s and which continued unchecked through the 1950s, and even as recently as the 1960s. It is estimated that nearly 5,000 Americans were lynched during this time. African Americans were strung up from trees, burned at the stake, mutilated in the town square for all to see. Those who committed such atrocities went without punishment. Justice was not only denied, it was ignored, abdicated, and overthrown.

The victims were not just those who were killed. A lynching is not only a heinous and savage act against one person; it is an act of violence against the rights of an entire community. Its victims are everyone who hears its hateful message.

Ida B. Wells-Barnett explained well the nature of lynching in America. Born in Mississippi a few months before the signing of the Emancipation Proclamation, Ida Wells-Barnett was the editor and co-owner of a Black newspaper called ''The Free Speech and Headlight.'' In 1900, she wrote:

> Our country's national crime is lynching. It is not the creature of an hour, the sudden outburst of uncontrolled fury, or the unspeakable brutality of an insane mob. It represents the cool, calculating deliberation of intelligent people who openly avow that there is an ''unwritten law'' that justifies them in putting human beings to death without complaint under oath, without trial by jury, without opportunity to make defense, and without right of appeal.

Lynching was an attack on the rule of law itself, and yet the U.S. Senate did not act against it. Antilynching legislation was called for by seven U.S. Presidents. The House of Representatives passed three antilynching bills. This body passed none, though many were introduced.

In 1935, Senator Edward Costigan spoke in favor of an antilynching bill he had introduced with Senator Robert Wagner. Having made a careful yet passionate argument for his proposed legislation, Senator Costigan concluded:

> If one can mention, much less picture such appalling facts as I have recited without being revolted, he is indeed hardened out of all semblance to humanity. They destroy our claim to civilized life. They must not be permitted to multiply. Every repetition of mob brutality denies its victims the right of speedy and impartial trial and the equal protection of laws guaranteed by the Constitution. No man can be permitted to usurp the combined functions of judge, jury, and executioner of his fellow men; and whenever any state fails to protect such equal rights, I submit that the federal government must do its utmost to repair the damage which is then chargeable to us all.

Faced with both the opportunity and the responsibility to act, the Senate simply failed. That failure is a permanent stain on this body, and we are not trying to wipe it away. We only hope that acknowledging it will allow for some national healing.

To the families of victims of lynching who sit in the Senate Gallery tonight, let me offer my personal sorrow over the injustice you have suffered. I hope our action today will bring you some comfort, though it cannot ease your loss.

As the ranking member of the Armed Services Committee, I also want to say a special word about the members of the American Armed Forces who were lynched in the country they had defended. Following both World War I and World War II, returning soldiers were lynched, many while still wearing their military uniforms. It is difficult to imagine a more unjust situation. There would be no new respect for these brave African Americans who had fought for our country, only the old order of injustice and hate.

Mr. President, it is easy for the Senate to apologize now. This is not a tough decision, only a somber one. But there are still tough decisions ahead. While we cannot bring justice to those who were lynched, we can continue to bring about the just society that was mocked and shredded by acts of lynching.

In that spirit, I hope that today is part of a larger effort toward racial reconciliation and justice. We can continue by honoring the Tuskegee Airmen with the Congressional Gold Medal for their contributions to our Nation's defense and to its progress, as proposed in bipartisan legislation, S. 392, introduced on February 16, 2005. And we can make progress on so many vital issues—education, health care, jobs—that would improve the lives of African Americans and all Americans. We have moved past lynching, but we have not reached justice. I hope we will not fail to act.

In closing, I would like to thank my able colleagues, Senator MARY LANDRIEU and Senator GEORGE ALLEN, for their diligence and leadership in bringing this healing resolution, which I was pleased to cosponsor, before the U.S. Senate.

Mr. MCCAIN. Mr. President, I am proud to be an original cosponsor of this important resolution. I commend my friends and colleagues, Senator LANDRIEU and Senator ALLEN, for their leadership on this important issue.

It is difficult to address this subject without noting the shameful record of Senate inaction on the issue of lynching. As noted in the text of the resolution, 4,742 people were lynched in the

United States between 1882 and 1968. During that time, 7 U.S. Presidents pushed for Congressional action on what had succeeded slavery as the ultimate expression of racism. Between 1920 and 1940, the House of Representatives passed strong antilynching measures on three different occasions. Sadly, the Senate failed to do its duty to enable antilynching legislation to be enacted, thus allowing this despicable, murderous practice to continue.

This Senate Resolution is long, long overdue. As we all know, the Senate has a basic Federal responsibility to provide protection to those in need. While our predecessors failed in that regard, we have an opportunity today to begin healing the wounds that this body's failures have inflicted upon the African American community for so many years.

The apology we issue today comes too late for the thousands of Americans brutally slain in this abhorrent manner. Hopefully, by our acknowledgment of wrongdoing, and our sincere apology, we can bring some solace to the family members who still recall—all too vividly—the horror of having a loved one murdered by lynching.

We must never forget the thousands of men, women and children who were deprived of life, human dignity, and the Constitutional protections that are to be accorded all U.S. citizens, We have a responsibility—to all Americans—to ensure that the tragedy of lynching, and this body's failure to address it, will neither be forgotten, nor repeated.

Mr. KENNEDY. Mr. President, I join my colleagues in condemning the shameful role of lynching in the Nation's history and the decades of refusal by the Nation, especially the United States Senate, to act against it. I commend my colleagues Senator LANDRIEU of Louisiana and Senator ALLEN of Virginia for bringing this important issue before the Senate floor and taking this long overdue action. And I thank the family members of the victims of lynching, many of whom traveled great distances to be here today.

The history of lynching is a stain on the Nation's past. Over 4,700 persons were lynched in the United States from the 1880s to the 1960s.

These lynchings involved acts of unspeakable cruelty. Many victims were shot, burned or hanged. Some of the victims were accused of criminal offenses, while others were attacked because of something they said or because they were in the wrong place at the wrong time.

The vast majority of victims were African Americans who were killed solely because of their race. In the year 1892 alone, 230 persons were lynched—at least one victim every other day. We must never forget that injustice. Many whites also fell victim to this brutality, singled out for their religion or ethnicity, their refusal to accept the racial hierarchy, or other reasons.

Lynching was devastating to African American communities. It struck fear into the hearts and minds of African Americans, who knew they could be killed at any time for the most trivial of offenses or for no offense at all.

Year after year, the Federal Government and State and local governments failed to respond effectively to the danger. The perpetrators had little reason to fear that they would be prosecuted or convicted. In some cases, scheduled lynchings were announced in newspapers beforehand, demonstrating the unwillingness of local law enforcement to intervene. Photos of lynchings show onlookers grinning at the camera. The failure of local authorities to prevent these atrocities dehumanized, demoralized, and terrorized black Americans.

When the 370,000 African-American soldiers who served in World War I returned home, many believed that they had earned the equality they had previously been denied. Their hopes soon turned to frustration, as the discrimination of the pre-war years was renewed and reinvigorated. Even newly discharged soldiers were lynched, still wearing their uniforms.

Lynching was more than isolated acts of brutality. It was vigilante mob murder that became systemic, ritualized and condoned by a racist society. It became a cruel weapon of white supremacy which took the lives of many African Americans and terrorized whole communities. Along with Jim Crow laws, segregated schools and dismal lack of property rights, lynching was used as an organized weapon of oppression that denied the fundamental rights of tens of millions of African Americans. As W.E.B. DuBois stated, the things that ''the white South feared more than Negro dishonesty, ignorance and incompetency, [were] Negro honesty, knowledge, and efficiency.'' Lynching was part of an organized attempt to oppress African-American communities and exclude them from the American dream.

In 1900, African-American Congressman George White introduced the first antilynching bill, only to see it die in committee. Brave men and women like Ida B. Wells, W.E.B. DuBois, and others in the NAACP, lobbied tirelessly for Federal antilynching legislation in the first half of the twentieth century. Their efforts succeeded in the House of Representatives, which passed such legislation three times between 1922 and 1940. Each time, however, the legislation died in the Senate.

In 1945, President Truman proposed a new antilynching bill, to make lynching a crime under Federal law. His proposal never made it out of the Senate Judiciary Committee.

We cannot undo the Senate's past failures to act against lynching. But we can and must do all we can to erase its bitter legacy.

Today, there is strong need to strengthen laws against hate crimes and other violence motivated by bigotry. As the Supreme Court has stated, bias-motivated violence is ''more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest.'' Like acts of terrorism, hate crimes have an impact far greater than the impact suffered by individual victims; they are crimes against entire communities and against the whole Nation. Whether based on prejudice against the victim's race, religion, ethnic background, gender, disability, or sexual orientation, hate crimes are modern-day lynchings which threaten not just individuals, but our entire social and political order.

My colleague, Senator SMITH and I have introduced bipartisan legislation to strengthen our laws against hate crimes, and I urge all of our colleagues to support it. That bill passed the Senate last year and died in the House. We will not give up until it becomes law.

As each of us knows, the past has consequences for the present, and past acts of lynching over many decades contributed substantially to the disparities between African American and Whites. We cannot undo that history, but if we are sincere in our apology today, we must match our words with deeds and work harder together to close the gaps.

At the beginning of this year, members of the Congressional Black Caucus put forward a plan for doing so, and we should work to implement it as one of the most important issues before us in this Congress.

We need to do more to ensure the job security of African Americans, whose unemployment rate is 10.1 percent—almost double the national average and more than double the unemployment rate of Whites.

Thirty-four percent of African American children live in poverty, nearly double the national average. We know that education is the key to opportunity and a better life, and we should be doing more to improve education at every level. We need to do more to help the youngest children in American—and the earlier, the better. Head Start has a 30-year track record of achievement in preparing children for kindergarten. It makes an enormous difference for 300,000 young African American children.

We must meet our promise of fully funding the No Child Left Behind Act. The President's proposed budget shortchanges elementary education under the Act by $12 billion—for a total deficit of $39 billion since the school reform law was first enacted. The No Child Left Behind Act is already leaving 3 million children behind.

In fact, the President's proposed budget contains the first absolute reduction for education in a decade. It has a cumulative cut of $40 billion for education over the next 5 years. One out of every three programs eliminated by the President is a program in the Department of Education.

We should also be doing more to fund opportunities for college. We know that African Americans are only half as likely as Whites to earn a college

degree. The current annual unmet need of a typical undergraduate now averages $5,800. It is more important than ever to increase grant aid. Yet the Bush administration has proposed only a $500 increase in the maximum Pell grant this year.

The budget also reduces a number of important programs to help African Americans, while preserving tax cuts for the rich and powerful. It proposes a 5-year freeze on child care funding, which will reduce the number of low-income children receiving this assistance by 300,000 in 2009. The budget also cuts $10 billion over 5 years from Medicaid, the program that provides basic health care for the poor.

As we review our legislative priorities, we cannot forget that we have a special duty to address the malignant disparities created by long-standing racial bigotry in this country—of which lynching was the most vicious example but far from the only example.

It's fitting that we enact this apology today, the first day of the long overdue trial for the brutal lynching of civil rights workers James Chaney, Andrew Goodman, and Michael Schwerner in 1964. Those murders, 41 years ago this month, took the lives of three young men whose only offense was attempting to register African Americans to vote in Mississippi, and it shows how deeply rooted racial violence once was in American life. All of us hope that the prosecution now taking place in that case, like the Senate apology today, can begin to heal these bitter wounds of injustice that the nation still feels because of the sordid legacy of lynching.

I look forward to working with my colleagues to achieve the great goal of genuine equal opportunity for all our citizens. May the passage of this resolution mark a new beginning of race relations in America.

Mr. CRAIG. Mr. President, I rise to clarify the record concerning my support for the resolution before us today.

I chose to cosponsor this resolution because of my abhorrence for the crime of lynching. I have been told that the passage of this resolution will enable people whose families were affected by this terrible crime to resolve their frustration that Government authorities did not do more to stop it. If this resolution helps people deal with the past so that they can move on to the future, it is a worthwhile statement to make.

Having said that, I am aware of concerns that have been raised about possible ''next steps'' based on the Senate's action on S. Res. 39. Let me just say that this resolution should not be interpreted—at least so far as this Senator is concerned—as any kind of an endorsement for some claim of compensation based on any action or inaction of the Federal Government.

In fact, what brings me to the floor is a concern that the actions of a particular Senator long ago may be subjected to unfair, revisionist criticism from our perspective today. The Senator in question is my predecessor, known as ''the Lion of Idaho,'' William Borah.

Senator Borah was one of the leaders of the Senate in blocking consideration of the anti-lynching legislation. I think it is important for the record to show that whatever motives others may have had at the time for blocking this legislation, William Borah offered convincing justifications for his position rooted in serious constitutional and policy concerns.

This is the conclusion I have drawn from considerable historical research of the debates of the time, which has been condensed into a report by a talented law student, David Palmer, who served as my law clerk earlier this year. I am going to ask that this report be printed in the RECORD so that all my colleagues can review it. It is an absorbing read, and I think it supports the conclusion that Senator Borah made a principled stand at the time.

I ask unanimous consent that the report of David Palmer concerning William Borah's arguments against Senate action be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: Senator Craig
Fr: David Palmer
Re: William Borah's arguments against Senate anti-lynching bills in the 1920's & 1930's

William Borah spoke out in opposition to the anti-lynching bills presented to the Senate on several occasions during the 1920s and 1930s. He did this primarily for two reasons: first, Senator Borah felt that such a bill represented an unconstitutional exercise of federal rights in the realm of criminal law (an area which had previously been reserved for the states); second—to a lesser degree—Senator Borah argued that even if such a bill were constitutional, it would be an ineffective law meant largely to penalize the South. Combining these rationales, and noting that lynching was a relatively infrequent crime of increasing rarity with each passing year, he argued that the tremendous costs to state sovereignty through federal intrusion in this matter would be much more dangerous to the good of all than any uncertain benefits that might come through passing such a bill. In short, Senator Borah was not a racist; rather, he was a man of deep commitment to this nation's federalist system, and this memo will present his respective constitutional and policy arguments against the anti-lynching bills of his day.

1. WILLIAM BORAH'S CONSTITUTIONAL ARGUMENTS AGAINST THE ANTI-LYNCHING BILLS

Senator Borah felt that there were a number of constitutional infirmities with the anti-lynching bills he faced, although they all revolved around his firm belief in states' rights as a centerpiece of the entire government. His constitutional problems with the various anti-lynching bills, as well as his reasons for championing state sovereignty so strongly, are detailed below.

A. BORAH: THE FOURTEENTH AMENDMENT IS NOT AN ACCEPTABLE CONSTITUTIONAL BASIS FOR ANTI-LYNCHING BILLS

To put Senator Borah's arguments in context, the proponents of the anti-lynching bills typically based their opinion that such bills were constitutional on two grounds: first, that the Federal Government must guarantee a republican form of government to all citizens; second, that the 14th Amendment's equal protection clause allowed for federal action in the face of state failure to prosecute lynchings. 79 Congo Rec. 6, 6524 (1935). Borah felt that the first point was ''utterly irrelevant'' (id.), and apparently so did his debating opponents, as almost all the constitutional debates Borah participated in dealt with aspects of the 14th Amendment.

Regarding the 14th Amendment, Borah consistently argued that any attempt to apply the amendment to the actions of individuals by the Federal Government should be rejected, as the amendment's framers specifically rejected this idea. Id. at 6362. The anti-lynching bills invariably allowed the Federal Government to step in at some point to prosecute the perpetrators of a lynching if a state had not done its law-enforcement job, thus mandating federal intrusion into law enforcement against individual action which was not undertaken by the states. Borah argued that this simply cannot be justified under the 14th Amendment, as such a capacity for law enforcement by the Federal Government (against individuals not acting as official representatives of a state) was explicitly rejected by those who originally passed the 14th Amendment. Id.

In a later debate (in 1937), Borah similarly argued that the 14th Amendment contains no clause whatsoever allowing the Federal Government to go into a state and establish civil liability for damages between citizens of the state, or between citizens and a subdivision of a state (as would have been allowed in that year's bill). He further argued that this anti-lynching bill was such a new proposition—constitutionally speaking—that the people of the United States should be consulted in the form of passing this bill as a constitutional amendment. Borah feared that it would ultimately result in the ''elimination of the states.'' 81 Congr. Rec. 8,8746–8 (1937).

Additionally, Borah argued that if our nation were really concerned about the equal protection of the law being enforced where it is needed, then the 1937 bill should not have exempted violence due to ''gangsterism'' and racketeering. This was the area in which he felt that most states had truly failed to enforce the law. Instead, the exemption reinforced in Senator Borah's mind that the anti-lynching bill was really a sectional bill aimed at punishing the south while exempting the northern states for their own law enforcement failures. Id. at 8753.

Finally, in 1938 Senator Borah cited several Supreme Court cases for the proposition that the 14th Amendment was not designed to transfer any power from the states to the Federal Government for protecting the lives, liberty and property of a particular state's citizens. 83 Congr. Rec. 2, 1492 (1938). Borah concluded his 14th Amendment arguments by stating that the only way a state could be liable under that amendment—in this area of the law—is if it were to not pass laws protecting its citizens from lynching. Id. at 1495. Because the states had done that, and given that the framers of the 14th Amendment (and the Supreme Court) had rejected the idea that the amendment transferred any power to the Federal Government for enforcing the criminal law, Senator Borah strongly opposed using the 14th Amendment as a basis for the antilynching bills.

B. BORAH: MCCULLOCH V. MARYLAND PRECLUDES THE ANTI-LYNCHING BILLS

Senator Borah attacked the 1938 anti-lynching bill on an additional ground: it would have allowed the Federal Government to bring suit on behalf of an individual

against a division of a state (a county) if the officials of the division had not enforced anti-lynching laws. Borah noted that this ability for one sovereign to bring suit against another sovereign was precluded by a continuous line of Supreme Court cases beginning in 1819 with *McCulloch* v. *Maryland*, 17 U.S.316. Id. at 1490.

Senator Borah began this argument by pointing out that *McCulloch* held the ability of one sovereign to tax another is the ability to destroy it, and this therefore is not constitutionally permissible. He further argued that the ability of one sovereign to bring suit against another is an equivalent power, and therefore it is unconstitutional on that ground as well. Finally, in response to another senator's argument, Borah went through a detailed list of how the Supreme Court had repeatedly issued decisions supporting his view (even in the cases decided since the passage of the 14th Amendment). Id. at 1491.

There are three key points Borah made in support of this *McCulloch* argument. First, he pointed out that the anti-lynching bill would have allowed the Federal Government to sue counties on behalf of individuals, and these suits against counties would constitute direct interference by the Federal Government with the power of states over their counties. Numerous Supreme Court decisions have disallowed such actions because of their impingement on state sovereignty. Id. at 1492.

Second, Borah argued that suing counties was the same thing as suing states (an idea supported by numerous Supreme Court decisions), and states could never consent to be sued by another sovereign (at most they could consent to be sued by their citizens). Id. at 1493.

Last, he argued that states cannot be found liable for the actions of their employees when those employees are not acting in an official capacity. As states already had anti-lynching laws on their books, Borah argued that any lack of enforcement by state officials of those state laws indicated that county officials were not acting in an official capacity during the dereliction of their responsibilities. Therefore, to allow the Federal Government to take action against those officials would be to allow the government to sue the states (through their counties) in situations where no official state conduct had occurred. 83 Congr. Rec. 1, 141 (1938). This, Borah argued (citing several Supreme Court decisions for this proposition), is constitutionally impermissible. 83 Congr. Rec. 2, 1494 (1938).

C. BORAH'S MISCELLANEOUS CONSTITUTIONAL ARGUMENTS

In addition to the constitutional arguments already discussed, William Borah included two other, albeit less-emphasized, legal objections to the anti-lynching bills in his speeches. One such argument was an objection to the trigger of Federal intervention under these bills: when only one man committed a lynching, it did not allow Federal jurisdiction; rather, it required the actions of a group of people, and thus ''the Constitution is being made subject to construction in accordance with the number of persons present when the crime takes place.'' 79 Congr. Rec. 6, 6677 (1935). Borah concluded this argument by saying that the act should be rejected because ''we certainly have not one Constitution for a half dozen and another Constitution for an individual.'' Id. at 6504.

Another point that Borah made regarding the constitutionality of the anti-lynching bills dovetails with his *McCulloch* arguments. He posed a question on the floor which implied that the particular anti-lynching bill before the Senate would create a cause of action for an individual against a county (and therefore a state), thus allowing an individual to sue a state—which is explicitly barred by the 11th Amendment. 83 Congr. Rec. 1, 965 (1938). While the senator to whom Borah asked this question replied that the suit technically was to be brought in the name of the United States Government on behalf of an individual, it is clear that this question was designed to cover Senator Borah's bases. In other words, if the suit was undertaken by the United States against a state, then the *McCulloch* reasoning would apply to make it unconstitutional; alternatively, if the action was undertaken by an individual, the 11th Amendment would apply. In either case the act would be unconstitutional.

D. BORAH: THE ANTI-LYNCHING BILLS WOULD DESTROY ESSENTIAL STATES' RIGHTS

Near the conclusion of William Borah's final speech regarding the anti-lynching bills, he summarized his position by stating that his only interest in opposing these bills was in preserving the integrity of the State. To him, the state was and remained ''the fountain source of the people's power in the Government; and when that is destroyed, democratic government is at an end.'' 83 Congr. Rec. 2, 1496 (1938). Racism did not enter that consideration, as his words and actions reveal a man of great devotion to the ideals of our federal system. Moreover, given the complete lack of a constitutional basis for any federal anti-lynching law, Borah felt that such a measure would constitute a naked intrusion by the Federal Government into state sovereignty. Furthermore, while Senator Borah repeatedly said that he had great respect for what the senators backing the anti-lynching bills were trying to do, he also could not allow any such bill to pass out of the Senate in order to have its constitutionality ruled on by the Supreme Court (as several senators had suggested as a course of action) without ''stultifying'' his own convictions. 79 Congr. Rec. 6, 6673–4 (1935). If the law were to be somehow found constitutional under an increasingly activist court, Borah felt that through this bill the Congress would ''have utterly annihilated all State sovereignty.'' Id. This was a possibility he could never support.

A primary reason Senator Borah so passionately opposed the anti-lynching bills was that allowing federal intrusion through those bills would create a principle of law that he felt would justify further intrusion in almost unlimited circumstances. While supporters of such bills could argue that the legislation only allowed federal intrusion under limited circumstances, the legal principle of the matter was of supreme importance to William Borah. He stated ''[i]f the Federal Government can send a United States marshal into the State of Tennessee to arrest a sheriff because he has failed to protect a colored man from violence, it can, under the same principle, send a United States marshal into the State of New York to arrest a sheriff, or other officer on whom the duty is imposed, because he neglected to protect the life of a citizen against the violence of thugs.'' 83 Congr. Rec. 1, 141 (1938). Therefore, while an anti-lynching bill might only take a limited amount of power from the states in the short-term, Senator Borah was a man who looked at the long-term future; he saw that any such bill such held grave implications for the sovereignty of states. Along these lines, he also argued that allowing this level of federal intrusion would indicate the complete displacement of our nation's federalist system. After all, if a state could not be entrusted exclusively to enforce its own laws, then he felt there was no such thing as local government. Id.

Additionally, Senator Borah included in his speeches some powerful language as to why he felt so strongly about protecting states' rights. In one speech, he explained that the experiences uniquely gained in local government shaped the political views of the founders of this nation. 83 Congr. Rec. 2, 1496 (1938). In another debate, he explained that in 1922 he opposed, in committee, the Dyer anti-lynching bill in part because he was convinced that it is not sound national policy ''to remove responsibility from the different local governments of the communities for the enforcement of the law. In the long run that results in breaking down all sense of duty upon the part of the citizen.'' 79 Congr. Rec. 6, 6673–74 (1935).

Moreover, this opposition to encroaching federal power is consistent with Senator Borah's views on other New Deal legislation as detracting from state sovereignty. Regarding such legislation he went on record as stating that ''we can only have a great Federal Union by having great individual sovereign States.'' Id. Concerning all of these measures (including the anti-lynching bill), Borah expressed his heartfelt feeling that ''there is nothing in all the realm of government more essential to the happiness and well-being of the American people than the right of local self-government,'' and the increased power by the Federal Government constituted an ever-growing threat to this happiness and well-being. Id.

In sum, Senator Borah felt that states necessarily had to retain their sovereign powers to make this union a great one. Any detraction from that power, particularly one with such far-reaching principles for federal intrusion as would be created under this bill, would be devastating to our federal system. Given the complete lack of constitutional support for such a bill in his eyes, William Borah could not in good conscience allow any of the anti-lynching bills to leave the Senate and potentially destroy the sovereignty of the states under an overreaching Supreme Court. Senator Borah was a deep believer in states' rights, his words and actions consistently supported that view, and to ascribe racism to him as a motivation is to both blatantly ignore the historical record as well as demean a man who dedicated his Senate service to furthering the form of government that would provide the greatest good for Americans of all races. As the Senator himself put it (in reference to the final anti-lynching bill put before him): ''[t]his, Mr. President, is another compromise with a vital principle of our dual system of government. It is bartering with the future for the supposed and transient demands of the present, and at a time when the present is taking care of the problem. It is another instance in which our confidence in our scheme of government is not strong enough to say to all races, all creeds, all groups, and all factions: Your problems, however serious, are subordinate to the principles of this Government, and you must work them out within the compass of the long-tested and well-accepted principles of democracy.'' 83 Congr. Rec. 1, 143 (1938).

II. WILLIAM BORAH'S POLICY ARGUMENTS AGAINST THE ANTI-LYNCHING BILLS

Although Senator Borah's opposition to the anti-lynching bills was primarily based on his belief that such legislation represented an unconstitutional infringement on states' rights, he also opposed the bills as poor policies. In his view, even if such bills were constitutional, they would merely result in an ineffective law that would destructively penalize the South. Given that lynching was declining each year as a crime, Borah believed that instituting an ineffective—and potentially damaging—bill to stop

a disappearing crime was simply not worth the price to be paid in greatly eroded state sovereignty. This section will detail William Borah's beliefs that creating federal anti-lynching laws would be poor national policy—even if they were somehow deemed constitutional.

A. BORAH: THE ANTI-LYNCHING BILLS ARE POTENTIALLY HARMFUL SECTIONAL MEASURES

In an extended speech given in 1938, Senator Borah assumed, for purposes of arguing the wisdom of adopting such a policy, that the anti-lynching bill before the Senate was constitutional. He then attacked the potential law on several grounds, beginning with his belief that the bill was nothing more than a sectional measure aimed at the South. 83 Congr. Rec. 1, 138–9 (1938). By sectional measure, Borah meant that he believed this legislative measure to be based on the same idea that inspired so much of northern policy towards the South during Reconstruction: a desire to punish the area because the southerners were incapable of self-government. Id. Although the senator did not offer in his 1938 speech a great amount of evidence as to why this was a sectional measure, it seems clear from his earlier speeches regarding the exception of ''gangsterism'' from prosecution that he felt anti-lynching legislation was aimed at a crime primarily occurring in the South while simultaneously exempting northern cities and states from their own law enforcement failures.

Senator Borah further explained that a measure aimed at the South would be both undeserved by the region and potentially harmful to the nation. He felt that the South had dealt as well as could possibly be expected with its ''race problem'' in the 70 years since the Civil War, and this was in part evidenced both by the economic progress of southern blacks as well as the lower per capita arrest rate by southern blacks (as compared to northern blacks). He finally stated his belief that nations are held together by more than just laws; mutual respect, confidence and tolerance from one part of the country to another is essential too. Borah feared that passing such a sectional bill would arouse old problems in the south that could potentially disrupt national unity. Id.

B. BORAH: THE ANTI-LYNCHING BILLS WILL BE INEFFECTIVE

Another policy argument that Senator Borah advanced against anti-lynching legislation was that it would be ineffective. He first stated this belief in the Congressional Record in 1935 when he argued that the legislation would be useless because lynching can only be effectively prevented by educating people. 79 Congr. Rec. 6, 6674 (1935). Borah reiterated that same argument in 1938, when he stated that educating both races ''to understand their responsibility to society'' would be the best way to end lynching, and he also noted that such education was underway in the South. 83 Congr. Rec. 1, 139 (1938).

Additionally, Borah argued that the actual enforcement of the federal law would be ineffectual for two reasons. First, he pointed out that the Federal Government is simply incapable of enforcing criminal law; he cited the federally-controlled District of Columbia and its extraordinary murder and crime rate as his primary example of this ineptness. Id. His second reason aligned with his concern that this was a sectional bill: Senator Borah felt that if Congress were to pass a bill that the South would interpret as aimed at them, then it would be completely unrealistic to expect southerners—even those employed by the Federal Government—to enforce the anti-lynching laws to any greater degree than the state anti-lynching laws. He firmly believed that laws could not be enforced without being backed by public opinion. Id.

C. BORAH: LYNCHING IS DISAPPEARING AS A PROBLEM IN THE UNITED STATES

A final policy argument that Senator Borah made against anti-lynching laws is that it was a disappearing crime. In 1937 he offered the statistic that 40,000,000 Americans were living in poverty to support Senator Pepper's argument that the Senate should be dealing with the problems of the nation's poor instead of ''debating an anti-lynching bill, when the total toll of lynching last year, I think, was about 11, one of the minor categories of crime, nationally speaking, in the United States.'' 82 Congr. Rec. 1, 158 (1937). One year later Borah argued that lynching had dramatically decreased in the United States since 1918, and it had almost disappeared in many states by 1938. Given the extremely small number of lynchings in the two years prior to the introduction of the 1938 anti-lynching bill (combined with the national trend towards fewer lynchings each year) Senator Borah concluded that there was not a sufficient problem to justify judging the southern states (through passing a sectional measure against them) as having failed in their provision of free government. 83 Congr. Rec. 1, 140 (1938).

III. POTENTIAL PROBLEMS WITH WILLIAM BORAH'S STATEMENTS

Although Senator William Borah's speeches convey the message that his real motivation for opposing anti-lynching legislation was based on his concern for state sovereignty, he did make one particular comment that needs to be addressed for its potential racial offensiveness. In 1938, Borah referred to a quotation by Henry W. Grady as true, and this quotation described the white and black races as two ''utterly dissimilar races on the same soil—with equal political and civil rights—almost equal in numbers but terribly unequal in intelligence and responsibility.'' Id. at 141. While this quote does on its face seem to be an overtly racist comment, there are a few reasons why this quote should not be taken as evidence that William Borah fought the anti-lynching bills because he was himself a racist.

The first reason this is so is that following this quotation, Borah put what he meant by it in context. As he explained, he felt that no race of people would have the capacity to assume full citizenship following years of being enslaved. Id. (Borah then argued that the efforts by the South in the years since Reconstruction were the best that could be expected given the circumstances of the region's past, and therefore the region should not be punished by this sectional bill.) Given his statement that no race could have assumed full citizenship following such treatment, it implies that Borah considered any lack on the part of the blacks to be a result of their slavery rather than an innate racial defect. While it is not a flattering statement, it is not strictly a racist remark; instead, Borah does seem to indicate that any race under similar conditions would be unequal in some regards to the enslaving race.

More important, William Borah's other speeches all strongly reinforce the point that his opposition to the anti-lynching bills were purely based on his views of the importance of state sovereignty. He repeatedly praised the intentions of his Senate colleagues who supported the anti-lynching bills, and none of those opponents ever imputed any racist motives to his beliefs. While opposing senators may have disagreed with his constitutional views, there is no record whatsoever that Borah's views were not legitimately held in this and other areas of federal expansion. To try and read such a motivation into the Congressional Record is to engage in revisionist history with no basis other than a personal agenda. Any description of William Borah as being racially motivated to oppose the anti-lynching legislation ignores all of the written record in order to manufacture a preferred reason for the senator's views.

IV. CONCLUSION

Senator William Borah was a passionate advocate for states' rights, and this—rather than racism—was the basis for his opposition to the anti-lynching bills presented to the Senate during the 1920s and 1930s. Senator Borah felt that those bills were unconstitutional for several reasons, and the 14th Amendment was certainly not a sound basis for them to pass constitutional muster. Moreover, Borah saw the anti-lynching bills as creating a principle that would justify repeated and destructive federal intrusion into the state sovereignty that was necessary for our nation's well-being. Finally, as lynching had dramatically decreased in the United States by the late 1930s, and given the Senator's feelings that anti-lynching legislation would be an ineffective solution to that disappearing problem (while at the same time threatening national unity), William Borah strongly believed that passing an anti-lynching bill would needlessly destroy our nation's federalist system without solving any problems at all.

In his final Senate speech against an anti-lynching bill, Senator Borah eloquently concluded by arguing that a loose interpretation of the 14th Amendment would contribute to the downfall of our governmental system, and that ''a few lives will be lost if we do not pass this measure, . . . which we will all regret. But many lives were lost to establish this Government, to establish this dual system, and the happiness and contentment of many millions will be lost if we do not preserve it.'' 83 Congr. Rec. 2, 1497 (1938).

Mr. KOHL. Mr. President, I rise today not only to show my support for S. Res. 39 but also to honor the achievements of Dr. James Cameron, the oldest living lynching survivor. Dr. Cameron moved on from his horrific early experience with racial hatred to found America's only Black Holocaust Museum. His life story and work are a source of hope and pride for many survivors of racial violence.

Dr. Cameron was born in LaCrosse, WI, in 1914 and moved to Indiana as a teenager. In Indiana, he accompanied two friends involved in an armed robbery that turned to rape and murder. Though Dr. Cameron ran away well before the crime was committed, all three young men were taken to jail. The Ku Klux Klan stormed that jail on August 7, 1930, hung Dr. Cameron's two friends and beat Dr. Cameron severely. Dr. Cameron survived but spent another 6 years in jail for crimes he did not commit.

Dr. Cameron has never let us forget the injustice done to him and to too many other victims of lynching and other forms of racial violence. After moving back to his home State of Wisconsin, he founded the Black Holocaust Museum in Milwaukee. This unique museum lays bare our Nation's violent past of racism and slavery. Dr. Cameron's efforts to shine a light on this disturbing aspect of our history have opened the eyes of thousands to the suffering of African-Americans—not only in the age of slavery but also in

the decades that followed. As painful as the exhibits in his museum are to view, they are a necessary reminder of the costs of racial hatred—and of the apology we owe to the families torn apart by acts of racial hatred.

Because of my great respect for Dr. Cameron—and because he has opened our eyes to the great crimes committed by this nation by not ending lynching—I am cosponsoring S. Res. 39, a resolution apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact antilynching legislation. The history of lynching in America is an atrocious one indeed. Between the years 1882 and 1968, some 4,700 people were lynched. And though, over that same period, nearly 200 antilynching bills were proposed, none made it past the Senate.

That lack of action is truly a black mark on this institution's history and legacy. An apology cannot erase our crimes—but an acknowledgment of the costs of our inaction is a first step toward ensuring we never again let hate and racism run unchecked through our great Nation.

Ms. SNOWE. Mr. President, I rise today as a cosponsor and strong supporter of S. Res. 39, an apology on behalf of the United States Senate, for its inaction during one of this Nation's darkest chapters. Today, my colleagues and I, through this legislation, offer an apology to the victims of lynching, and their families and descendants, for the Senate's failure to enact antilynching legislation throughout the course of this Nation's history. Despite the fact that, at key junctures in our Nation's history, the House of Representatives passed, and the President stood ready to sign, Federal law to actively eliminate lynching throughout the country, such legislation died in the Senate, as did the many victims of this heinous crime who might have been saved by the passage of such law.

Following the Civil War, and as Reconstruction ended Federal troops withdrew their presence from the States that had been in rebellion, lynching became the most extreme form of racial oppression in the South. Between 1881 and 1964, at least 4,749 reported lynchings took place, with most of the victims being black; all but four States had at least one lynching on record. However, 99 percent of the perpetrators of these crimes escaped any punishment, as State and local authorities refused to investigate and prosecute these cases, and those who were charged with lynching were regularly acquitted by all-white juries.

Unprotected by State authorities, African-Americans and civil rights groups sought protection from the Federal Government, the same authority that rid this Nation of the scourge of slavery. As a result of the Reconstruction amendments to the Constitution, the Federal Government had the express power to pass legislation under the 13th and 14th Amendments to use the full force of the Federal Government's law enforcement authority to put an end to lynching. In fact, between 1890 and 1952, seven Presidents petitioned Congress to halt lynching, and almost 200 antilynching bills were introduced in Congress. Most notably, on three on three occasions between 1920 and 1940, the House of Representatives passed strong antilynching bills. And equally as regrettably, all three of these bills died in the United States Senate.

That is why I find S. Res. 39 to be entirely appropriate, and frankly long overdue. This resolution, offered by my colleagues Senator LANDRIEU and Senator ALLEN, constitutes a formal apology by the Senate ''to the victims and survivors of lynching for its failure to enact antlynching legislation.'' It further expresses this Chamber's sympathy and regret to the descendants of these victims. Undoubtedly, a measure of this nature may stand as insignificant when compared to the sad legacy of men, women, and children dying at the hands of racist, bigoted vigilantism. Yet it is my hope that this resolution, which we will pass tonight, will help heal some of the wounds for the surviving family members of the victims of lynching.

This effort has been a long time coming, and I am thankful for the involvement of my colleagues, present and former, who have taken part in supporting this effort. I thank the sponsors of this resolution, Senators ALLEN and LANDRIEU, as well as all other cosponsors of this resolution, 60 in number altogether. I also want to thank Janet Langhart Cohen and her husband, our former colleague and fellow Mainer Bill Cohen. Their devotion to championing this cause helped to raise my awareness of this issue, and I am sure many of my colleagues have similar feelings.

For decades after the Civil War, too many of our fellow Americans suffered from the murderous actions of lynching bees and the fear and intimidation that accompanied those actions. People of all backgrounds fell victim to lynch mobs in nearly every State, but this burden fell especially hard on our fellow citizens in the African American community. Needless to say, the Senate bears no direct responsibility for these crimes, nor does this resolution suggest anything along those lines. However, the Senate's sin was one of omission. At critical junctures in our history, when the tide of the terror wrought by lynching could have been stemmed by passage of Federal legislation, the Senate single-handedly blocked such action. For this inaction, at times when this legislative body was needed the most, we in the Senate express our heart-felt apology to those whose suffering could have been avoided.

I yield the floor.

Mr. LOTT. Mr. President, I would like to state my support for the nomination of Thomas B. Griffith to the U.S. Court of Appeals for the D.C. Circuit. I believe that Mr. Griffith will serve the Federal judiciary with honor and distinction.

Mr. Griffith served as Senate Legal Counsel while I was majority leader, and I found him to be intelligent, honorable, and supremely qualified for this position on the Federal bench. As Senate Legal Counsel, he represented the Senate, its committees, Members, officers, and employees in litigation relating to their constitutional powers and privileges; advised committees about their investigatory powers and procedures; and represented the institutional interests of the Senate with honor.

He was appointed to that nonpartisan position by a unanimous resolution sponsored by the leaders on both sides of the aisle. In addition to his service to this body, Mr. Griffith has obtained extensive legal experience in private practice in civil, criminal and regulatory matters.

Mr. Griffith currently serves as assistant to the president and general counsel of Brigham Young University, a position he has held since August of 2000. As general counsel for BYU he is responsible for advising the university on all legal matters, including the management of all litigation involving the university.

Evidence of qualification can also be found in Mr. Griffith's outstanding academic record. He graduated summa cum laude from BYU, receiving high honors with distinction from its Honors Program. He later received his Juris Doctor from the University of Virginia School of Law and served on the editorial and articles review board of the Virginia Law Review.

Mr. Griffith has the support of a broad, bipartisan group of attorneys and law professors, including Abner Mikva, former Chief Judge of the Court of Appeals for the D.C. Circuit.

This nominee has also served on the American Bar Association Central European and Eurasian Law Initiative's Advisory Board. With the CEELI, he participated in the training of judges and lawyers in Croatia, Serbia, Russia, the Czech Republic and several other countries and has actively worked to establish a regional judicial training institute in Prague. His experiences in these unique endeavors should be of particular value during his tenure on the bench.

Additionally, between 1991 and 1995, Mr. Griffith dedicated hundreds of hours in the pro bono representation. He has also represented disadvantaged students in the public school system in North Carolina during due process hearings that accompanied disciplinary actions.

The American Bar Association has stated that Mr. Griffith is qualified for this position in the Federal judiciary, and I concur.

Mr. LEAHY. Mr. President, the resolution for consideration today details the Senate's shameful failure to pass

anti-lynching legislation despite several attempts. Even as seven Presidents called for anti-lynching legislation, and the House three times passed such bills, the Senate has steadfastly refused to act.

At least 4,749 people were reported lynched between 1881 and 1964, with the vast majority of the victims being African-American. Shockingly, 99 percent of the perpetrators of these horrible acts escaped punishment from State or local authorities.

My State was one of only four or five States that did not have a lynching during that time. It wasn't just one or two States. It was every State in the Union, every State of the then-48 States with the exception of only four or five.

Even though my State did not have any, I cosponsored this resolution because I believe an apology is in order. I have cosponsored this resolution because an apology is surely in order, and I believe Senator LANDRIEU deserves great credit for bringing this important issue to the Senate's attention.

This public act of contrition is an important gesture today to take responsibility for the civil rights misdeeds of the past. But it is also an opportunity for Congress to show the country that we will not tolerate similar offenses. As we pass this resolution, it is fitting to carry this principle to the present and act in kind to prevent civil rights and human rights abuses occurring now in this country and around the world.

As we pass this resolution, we should also recognize that it is long past the time to pass the Local Law Enforcement Enhancement Act, which would strengthen and extend our Federal hate crimes law. The Senate has repeatedly passed this bill, with 65 votes in the last Congress. The Republican leadership in the House, with the acquiescence of the Bush White House, has killed it. It is fitting that we apologize for past inaction, but that does not obviate the need to solve today's problems.

By the same token, we should reauthorize the Voting Rights Act in this Congress and not wait for 2007. We need to ensure that this law, one of the most important bills of the 20th century, remains in effect to safeguard the fundamental right of all citizens to participate fully in our democracy.

We should also remember the leading role this country played in drafting the Universal Declaration of Human Rights, which was modeled on our own Bill of Rights. As the country that, especially since the Second World War, has been looked to around the world as a beacon of hope for victims of arbitrary arrest, torture, and the denial of fundamental freedoms, we need to set a far better example than we are today. The atrocities and dehumanizing mistreatment that have occurred in U.S. military detention facilities in Afghanistan, Iraq and Guantanamo, are eerily reminiscent of some of the despicable acts described in this resolution. In addition, the continued assistance the administration is providing to foreign security forces that violate human rights, directly contradict the message we are trying to send with this resolution. We should not be satisfied with long overdue apologies. There are serious human rights problems that we need to address today.

A few years ago, I had the opportunity to examine the book ''Without Sanctuary: Lynching Photography in America,'' which is referred to in this resolution. The haunting photographs in this book make plain the evil that lurked in this Nation not very long ago, and make it impossible to accept the fact that the individuals and mobs that committed these heinous acts by and large suffered no consequences. This resolution deserves our immediate approval, and I hope it provides some comfort to the descendants of the victims of these horrible crimes.

Mr. KYL. Mr. President, it is every citizen's duty to know American history. One fact we must reckon with is that our experiment in self-government began in a compromise with the existence of slavery. As the American experiment went forward, protections granted to slavery in the Constitution—a document that never explicitly mentioned slavery—were dismantled. The cost was great: Brother fought against brother in the Civil War, largely over whether ''the peculiar institution'' would be allowed to thrive in the United States. When, at the end of that terrible conflict, the 13th amendment was put in the Constitution, slavery was abolished.

Yet while a pernicious institution was now, thankfully, illegal, its aftereffects were still felt in the former slave States. Postwar reconstruction was supposed to restore the natural and the civil rights of the former slaves and their descendents; but State and local authorities did not enforce those rights. The lynching of African Americans, and other forms of persecution, would persist into the 20th century, to the shame of every decent citizen.

Candidly facing this history is important. We must not forget the wrongs of the past—nor that we have had leaders willing to come forward and stand against those wrongs. From the Continental Congress passing the Northwest Ordinance of 1787, which banned slavery in the region northwest of the Ohio River, to the words and deeds of Frederick Douglass and Abraham Lincoln, to the civil rights movement of the 1960s, brave men and women reaffirmed for all of us the principles of human equality and consent of the governed on which our Nation was founded.

Lincoln declared: ''Those who deny freedom to others deserve it not for themselves, and under a just God, cannot long retain it.''

I support Senate Resolution 39 in the name of honesty and national unity. As Senators representing Americans of all colors and creeds, we ought to give due recognition to past injustices. Even more importantly, we ought to live today by Lincoln's dictum. We must make sure our laws and our practices always reflect our belief in individual worth and equality under the law. This belief held in common is what has helped Americans—whatever their race, religion, or background—to succeed.

Mr. FEINGOLD. Mr. President, the Senate has accomplished some wonderful things for this country. But sometimes this body makes grave mistakes. Today, by passing the resolution apologizing to the victims of lynching, we acknowledge one of the gravest. The use of the filibuster and other dilatory tactics to prevent the enactment of a law criminalizing lynching is among the darkest chapters in the history of the U.S. Senate. This resolution is a small but important step toward helping us come to terms with the Senate's disgraceful failure over a period of many years, at the beginning of this century, to protect our citizens. I congratulate Senators LANDRIEU and ALLEN for their work to bring this resolution before the Senate.

There are few crimes as despicable and contrary to the rule of law as lynching. The practice was born of hatred, racial or otherwise, and disdain for our criminal justice institutions. Unfortunately, lynching occurred throughout the United States, with cases documented in all but four states. From 1881 to 1964, there were 4,749 recorded victims of lynching. Of these victims, 3,452 were African Americans. Worse still, in nearly all cases of lynching before 1968, local and state law enforcement officials failed to investigate or prosecute the perpetrators.

An anti-lynching law would have allowed Federal prosecutors to bring the perpetrators of lynching to justice. On three occasions, the House passed anti-lynching bills, but each time a small group of Senators filibustered the proposals in the Senate.

Although a resolution cannot make up for the terrible injustice perpetrated against the victims of lynching and their families, this resolution is, at least, a positive step toward recognizing the Senate's past mistakes. There is much more that the Senate must do to address continuing racial injustice in this country. But this resolution is a worthy effort. I am proud to support it, and I am pleased that the Senate will pass it tonight.

Mrs. LINCOLN. Mr. President. I rise today in support of Senate Resolution 39.

This resolution acknowledges a dark period in the history of our Nation and the history of this institution. It was a time of racial intolerance, hatred and violence, that took the lives of 4,742 people, mostly African Americans, between 1882 and 1968. It was also a time when this body failed to fulfill its moral and constitutional responsibilities to pass significant legislation

which may have prevented many of these deaths.

During this time, there were 284 victims of lynching in my home State of Arkansas. It was a crime that was documented in over 46 States. To properly punish those responsible, Congress tried on over 200 occasions to pass antilynching legislation but on each occasion it came to the Senate floor, it was defeated.

While we can never adequately express the deep sympathy and regret in our hearts, I am hopeful this long overdue acknowledgment and apology brings some sense of solace to the descendants of victims of lynching. This was a moment in our nation's history that was at odds with the principles upon which we were founded, and a moment at odds with our future. When we acknowledge the misdeeds of our past and demonstrate a willingness to learn the lessons from those actions, we build upon the many things that unite us all to make our Nation stronger and a better place to live.

Mrs. BOXER. Mr. President, today we in the Senate are finally apologizing to the descendants of the nearly 5,000 victims of lynching, primarily African Americans, for our failure to enact antilynching legislation.

Even though the House of Representatives passed three strong antilynching measures between 1920 and 1940, the Senate filibustered all of those measures. This was wrong, and this resolution is long overdue.

Lynching, a widely acknowledged practice that continued until the middle of the 20th century, was a shameful chapter in our history. It was mob justice at its most heinous, motivated by racial and ethnic hatred. And it was a national problem occurring in all but four States in our country.

While passing this apology is important, it not going to right every wrong. And it does not absolve us of our responsibility to continue to work to provide justice in American society.

Justice at the polls for those who are made to stand in line for hours to exercise their right to vote.

Justice in the schools so that every child has an equal educational opportunity.

Justice in the workplace so that no worker will face discrimination.

Let us use this opportunity not only to apologize for a shameful injustice but to dedicate ourselves to eradicating the remaining injustices in our society.

Mr. HARKIN. Mr. President, I am here to speak on the Senate's need to redress a past wrong. For more than 6 decades, the Senate attempted to pass legislation outlawing the terrible act of lynching. And for more than six decades, against the wishes of many Presidents and a majority of Congressmen and Senators, a small minority of Senators prevented any antilynching legislation from passing this body. Three times the House passed bills with severe penalties for perpetrators of this crime, and three times companion bills failed to garner enough support to stop a filibuster in the Senate. Today, it is time for atonement—and for a belated apology on behalf of the United States Senate.

My colleagues and I have drafted this resolution to apologize for the past mistakes of this governing body. This terrible crime was a widespread phenomenon in the late 19th century and throughout the first half of the 20 century. It was practiced in some 46 states.

Mark Twain once termed lynching as an ''epidemic of bloody insanities.'' Compounding the tragedy of lynching is that fact that some 99 percent of the perpetrators of these crimes failed to receive any punishment for their actions.

This resolution cannot make up for the Senate's past failures, but it will serve as a statement of remorse from this body. It has been said that one cannot judge the past through the lens of the present, but lynching should have been viewed as a crime in any time. The Senate, through this legislation, apologizes for its past mistakes, and seeks to redress the failure of this body to protect Americans from violent and sadistic behavior.

No longer will this body permit an ''epidemic of bloody insanities'' to overtake this Nation.

Mr. JEFFORDS. Mr. President, I would like to express my support for Senate passage of S. Res. 39, a resolution of apology for the Senate's failure to pass anti-lynching legislation.

Some may wonder about the need to pass this resolution concerning events that occurred decades ago. I believe it is important that light be shown upon, and a discussion occur, about these horrific events. As the famous saying goes, ''Those who do not know history are doomed to repeat it.'' There were almost 5,000 documented cases of mob lynching in the United States since the Civil War. It is important to note that many historians believe this number should be doubled to include the undocumented cases that occurred.

Lynchings occurred almost everywhere in the United States, and were in many cases examples of so-called mob justice which thwarted the decisions of or shortcut the American judicial system. Despite the national scope of these events, the Senate refused to pass anti-lynching legislation that would provide greater protection to innocent victims and bring the guilty to justice.

While we cannot reverse the decisions made by previous Senates, we can at the very least, offer our apologies and highlight this shameful period in American history. Only by exposing these terrible events, discussing how they occurred, and learning from them can we hope to avoid repeating them in the future.

Ms. MIKULSKI. Mr. President, today the Senate acknowledges the dark side of our history. We apologize for a terrible wrong—the Senate's repeated failure to adopt anti-lynching legislation. This legislation is long, long overdue. I join my colleagues in offering this resolution as a way of saying how profoundly sorry we are that the Senate did not act decades earlier—when action might have saved lives. We also recommit ourselves to ensuring that this will never happen again.

The horrific practice of lynching is a stain on our Nation—and on our souls. There were over 4,700 documented lynchings in the United States. There were 29 documented lynchings in Maryland. These lynchings were public events, with members of the community colluding—either directly or indirectly—in this horrifying practice. It was no accident that they made them public—they were sending a message to other African Americans in the community. These crimes left thousands of people dead and families and communities scarred. Yet 99 percent of these murderers were never arrested or tried for their crimes.

For many in Maryland, the history of lynchings is not an abstraction—it is the history of their family or their community. The Washington Post reported about a 1906 lynching in Annapolis, where Henry Davis was lynched on a bluff near College Creek just days before Christmas. There was George Armwood, who was lynched and burned by a mob in Princess Anne's County, and King Davis—who was lynched in Brooklyn, MD on Christmas Day in 1911. Many institutions throughout the Nation have tried to document the extent of this racial violence—but so many incidents went unreported that we will never have a true account of how many African Americans were murdered.

Billie Holiday, a Baltimore native, tried to capture the despicable practice of lynching in her 1939 song ''Strange Fruit.'' Her career suffered because of the painful honesty of this song. Her record label refused to record it, and some of her concerts were cancelled. Yet Holiday's perseverance turned ''Strange Fruit'' into one of the ''most influential protest songs ever written'' and an inspiration for those fighting for racial justice.

The Senate tried several times to put an end to this monstrous practice by outlawing it, but each time the measure died. This is a horrific failure that cost American lives. This failure will always be a scar on the record of the United States Senate.

Today we apologize for this tragedy, though no action now can right this wrong. Although we acknowledge this dark side of our history, we cannot and should not want to erase it. We must ensure that it serves as a lesson about a time when we failed to protect individual rights and preserve freedom.

This legislation is important to recognizing the evil of lynching and the failure of government to protect its citizens. It also stands as a symbol of our commitment to move our Nation

forward so we can truly be a symbol of democracy.

Next week in Baltimore, we will open the Reginald Lewis Museum of African American History and Culture. It will be a proud day—the celebration of a strong and proud history that has made our Nation great. This museum documents the courageous journeys toward freedom and self-determination for African Americans in Maryland and in America. Yet history must also acknowledge this dark side of our history. We must educate the next generations about the proud history, and mighty struggle that African Americans have endured in the United States.

Today, this resolution stands as a painful reminder of that history. Yet it should also stand as a guiding principle—that we must always fight to protect the rights of all Americans. This resolution acknowledges that the Senate was wrong when it failed to enact anti-lynching laws. But it also empowers us to move forward to do all that we can to strengthen opportunity for all Americans, to fight discrimination in every form and to ensure that we vigorously protect the rights of all Americans.

Mr. ALEXANDER. Mr. President, this past February, I introduced the resolution celebrating Black History Month that follows these remarks. Thirty five other Senators have joined me in this effort. I offered this resolution in the spirit of my late friend Alex Haley, who lived his life by the words ''Find the Good and Praise It''. These six words are etched on his tombstone in the front yard of his grandparents' home in Henning, TN. When Alex was a boy, he would sit on the front porch steps of that home on summer evenings listening to his great aunts rock in their chairs and tell the stories that eventually became Roots, the story of the struggle for freedom and equality.

It is in that spirit that the Black History Month resolution honors the contributions of African Americans throughout our history, recommits the United States Senate to the goals of liberty and equal opportunity for every American, condemns the horrors of slavery, lynching, segregation, and other instances in which our country has failed to measure up to its noble goals, and pledges to work to improve educational, health, and job opportunities for African Americans and for all Americans.

African Americans were brought forcibly to these shores in the 17th century. From that dark beginning, however, these men and women and their descendants have overcome great obstacles. They continue to do so, and have taken a prominent place among the many people of diverse backgrounds who have come together here to form a single nation. African Americans have made and continue to make significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancement of the United States of America.

Black History Month, and this discussion in the Senate today, offer an opportunity to remind ourselves that the United States of America is a work in progress. Ours is the story of a people establishing high ideals, and then struggling to reach them, often falling short, rarely achieving them, but always recommitting ourselves to trying again. This is why we continue to say that anything is possible in America, that no child shall be left behind, and that we will pay any price to defend freedom, although we well know that we will never quite reach such lofty ideals.

Perhaps the most ambitious of our goals is the proposition, expressed in the Declaration of Independence, that ''all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. . . . .'' Our most conspicuous failure to reach this goal is the treatment of African Americans. Slavery, lynching, and segregation are all disgraceful examples of times when this Nation failed African Americans, when we failed to live up to our own promise of that fundamental truth that all men are created equal.

However, for almost every time that we have failed, we have then struggled to come to terms with the disappointment of that failure and recommitted ourselves to trying again. Where there once was slavery, we enacted the 13th and 14th amendments abolishing slavery and declaring equal protection under the law for all races. After segregation, came Brown v. Board of Education and the Voting Rights Act. There are so many moments like these in our history. We should celebrate these moments, but we should not stop there. We celebrate and remember our history so that we can learn its lessons and apply them today. Today's wrongs are begging for attention. African Americans in this country face significant and often crippling disparities in education, health care, quality of life, and other areas where the Federal Government can play a role.

There are different ways to acknowledge those times when Americans have failed to live up to our lofty goals. The Senators from Louisiana and Virginia, who are also co-sponsors of our Black History Month resolution, have chosen to apologize for the actions of some earlier Senators as a way of expressing their revulsion to lynching. I also condemn lynching, and this Black History Month resolution condemns lynching. But, rather than begin to catalog and apologize for all those times that some Americans have failed to reach our goals, I prefer to look ahead. I prefer to look to correct current injustices rather than to look to the past. Maya Angelou once wrote, ''History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again.''

There is no resolution of apology that we can pass today that will teach one more child to read, prevent one more case of AIDS, or stop one more violent crime. The best way for the United States Senate to condemn lynching is to get to work on legislation that would offer African Americans and other Americans better access to good schools, quality health care and decent jobs. By joining together in our Black History Month resolution, 35 members of this body commit ourselves to do just that, to find more ways to look to the future, and to continue to contribute to this work in progress that is the United States of America.

I don't know what my friend Alex Haley would say about this Senate resolution or that Senate resolution. But I do know how he celebrated Black History Month. He told wonderful stories about African Americans and other Americans who believed in the struggle for freedom and the struggle for equality; he minced no words in describing the terrible injustices they overcame. He said to children that they were living in a wonderful country of great goals, and that while many in the past often had failed to reach those goals, that we Americans always recommit ourselves to keep trying.

Mr. CORNYN. Mr. President, I wish to associate myself with the articulate and poignant remarks of the junior Senator from Tennessee. He is absolutely right, of course, that the era of widespread lynching in our nation's history is deplorable. And he is right that we must look to the future, to ensure that such crimes are never again allowed to occur.

There are different ways to acknowledge those times when Americans have failed to achieve the goals we have set for ourselves. The Senator from Tennessee quotes Maya Angelou, who once wrote, ''History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again.'' Indeed, let us learn from the past, and look forward with such courage.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I know we have other Senators on their way to the Chamber to speak.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I am here tonight on behalf of my colleague from Virginia, Senator ALLEN, and all of our colleagues who participated in the debate to close out this evening on this very important and historic resolution, S. Res. 39, which has apologized formally, officially, and with great sincerity to the thousands of victims of

lynching and to their descendants. It was, as was stated most eloquently and passionately on this floor, a very dark chapter, indeed, in American history, but a real mark against this Senate that, despite the repeated pleas of the victims and their families, thousands of Americans, the House of Representatives, and seven Presidents, of both parties, the Senate failed to act.

Tonight the Senate has admitted its mistake and has taken a very positive step in admitting failure so that we can have a brighter future. I know that many of these victims and their families—''survivors'' is really a better word—have triumphed against this evil. Many were African Americans, but they were people of all different races and religious backgrounds. Many of them were here tonight and have been with us all day today.

I know their names are part of the record, but again they were James Cameron, 91 years old, a victim of lynching who miraculously survived to tell his story; Doria Johnson, the great-granddaughter of Anthony Crawford—Grandpa Crawford, as he has been called—from Abbeville, SC—what a story that family has to tell. Dan Distel, the great-grandson of Ida Wells. What a brave and historic journalist she was. In the face of literally constant threats to her life, she continued to write. What a role model for journalists everywhere of the courage of what it really takes to tell a story. And she did it.

We had many other family members and history professors with us today. There was a tremendous effort that enabled us to get to the floor tonight. As I wrap up, I want to again thank the staff. I thank my staff, including Jason Matthews, my deputy chief of staff; Kathleen Strottman, legislative director; Nash Molpus, who is with me on the floor. Our staff has been very helpful. Senator ALLEN's staff has also been remarkable and so many have contributed to this effort.

I had many quotes to choose from, Mr. President, to end tonight. Really, there were hundreds of them that would be appropriate. But one was especially appropriate, for the close of this debate because, while it ends one chapter, it begins many new chapters in the history of our Nation. The woman I will quote from is one I have admired my whole life. I have read much about her and have been taught a lot about her. I will read this quote from this particular woman because it took guts to say what she did, at a time when people in America didn't want to hear it. This came at a time when people didn't want to hear what women had to say, generally, about any subject, let alone the subject of injustice and intolerance not only in our Nation but the world.

The woman I will quote is Eleanor Roosevelt, who actually led a group of descendants into this Chamber in 1938 to urge the Senate, hopefully by their presence, to act—men and women who came with their own being, their own bodies to try to tell the Senate what you are reading about isn't true; these are innocent people. Eleanor Roosevelt escorted them to this Chamber and, of course, through all of their mighty efforts, actions were not taken, but not through any fault of hers. What I want to quote is what she wrote about universal human rights. I read this as a young legislator. Of course, we read lots of things, and some things stick and some don't. This particular quote is seared into my heart. I try to remember it every chance I get. I read it often, and I would like to read it tonight because it is very relevant to the debate that we have had. She wrote:

> Where, after all, do universal human rights begin? In small places, close to home—so close and so small they cannot be seen on any maps of the world. Yet they are the world of the individual person, the neighborhood he lives in, the school or college he attends, the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close at home, we shall look for them in vain in the larger world.

We have heard stories today—hundreds of stories about these small places close to home—trees in a public square, river banks, levees, streets, alleys, open fields, behind school buildings, and in front of stores. This is where people want to experience dignity and justice. Some of these towns are so little they may still not be on any map of the United States. Maybe in some of these towns—because of what happened in the past—there are very few people who live there. And some of these places are quite large, where you can find them on the map. I think it is instructive for the Senate, as we make this sincere apology tonight, that we really take a breath and be very introspective to think about where these small places are in America, where these places of any size are in America, and recommit ourselves to be honest about our failings and our shortcomings, to be honest about the fact that we are not always as courageous as we should be.

But when we come to a point where we know we made the wrong decision, we didn't act in the best interests of our country or the American citizens who look to us for their protection and their support, we should at least be able to sincerely say we are sorry. That is what we did tonight. I thank Eleanor Roosevelt. I am forever grateful for her great leadership for the country and for thousands of Americans, people of all races, who advocated for justice and freedom at great expense to their own life—which is not what most of us experience today, gratefully—with great expense to their reputation, their livelihood. She was really not understood or appreciated in the world in which she lived.

There were many children in the Senate today, these children and great, great, great-grandchildren. Some of the victims and some of the journalists who have written about this in the past were here. Let's make sure they know the truth and they know that tonight we apologize.

Thank you, Mr. President.

Mr. BENNETT. Mr. President, I have listened with great interest to the presentations that have been made on the floor and wish to be associated with the sentiments involved.

I come from a State that does not have a history of lynchings, but that does not mean I should be absolved from the concern that all Americans should have over the lynchings that have occurred. I note that it was the filibuster that made it possible for the Senate to be the body that blocked this legislation in the past. I would hope that in the future, we would all realize that the filibuster should be used for more beneficial purposes than that.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPORTANCE OF CONSULTATION ON JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I spoke on the Senate floor last week about the benefits to all if the President were to consult with Members of the Senate from both sides of the aisle on important judicial nominations. I return today to emphasize again the significance of meaningful consultation on these nominations because it bears repeating given what is at stake for the Senate, the judiciary and this country.

In a few more days the United States Supreme Court will complete its term. Last year the chief justice noted publicly that at the age of 80, one thinks about retirement. I get to see the chief from time to time in connection with his work for the Judicial Conference and the Smithsonian Institution. Sometimes we see each other in Vermont or en route there, and I am struck every time by his commitment. I marvel at him. I think that his participation at the inauguration earlier this year sent a powerful positive message to the country. I know that the chief justice will retire when he decides that he should, not before. He has earned that right. I have great respect and affection for him and he is in our prayers.

In light of the age and health of our Supreme Court justices, speculation is accelerating about the potential for a Supreme Court vacancy this summer. In advance of any such vacancy, I have called upon the President to follow the constructive and successful examples set by previous Presidents of both parties who engaged in meaningful consultation with Members of the Senate

before selecting a nominee. This decision is too important to all Americans to be unnecessarily embroiled in partisan politics.

I said again last week that should a vacancy arise, I stand ready to work with President Bush to help him select a nominee to the Supreme Court who can unite Americans. I have urged consultation and cooperation for 4 years and have reached out, again, over the last several months to this President. I hope that if a vacancy does arise he will finally turn away from his past practices, consult with us and work with us.

Some Presidents, including most recently President Clinton, found consultation with the Senate in advance of a nomination most beneficial in helping lay the foundation for successful nominations. President Reagan, on the other hand, disregarded the advice offered by Senate Democratic leaders and chose a controversial, divisive nominee who was ultimately rejected by the full Senate.

In his recent book, ''Square Peg,'' Senator HATCH recounts how in 1993, as the ranking minority member of the Senate Judiciary Committee, he advised President Clinton about possible Supreme Court nominees. In his book, Senator HATCH wrote that he warned President Clinton away from a nominee whose confirmation he believed ''would not be easy.'' Senator HATCH goes on to describe how he suggested the names of Stephen Breyer and Ruth Bader Ginsburg, both of whom were eventually nominated and confirmed ''with relative ease.'' Indeed, 96 Senators voted in favor of Justice Ginsburg's confirmation, and only 3 Senators voted against; Justice Breyer received 87 affirmative votes, and only 9 Senators voted against.

The Constitution provides that the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint'' judges. For advice to be meaningful it needs to be informed and shared among those providing it.

Those recent examples are not the only examples of effective and meaningful consultation with the Senate. According to historians, almost 150 years ago, in 1869, President Grant appointed Edwin Stanton to the Supreme Court in response to a petition from a majority of the Senate and the House. More than 70 years ago, in 1932, President Hoover consulted with Senator William E. Borah regarding who he should nominate to succeed Justice Oliver Wendell Holmes. According to historical reports, as has been confirmed by Republican Senators, Senator Borah counseled the President to select Benjamin Cardozo from his list of potential nominees.

Bipartisan consultation would not only make any Supreme Court selection a better one, it would also reassure the Senate and the American people that the process of selecting a Supreme Court justice has not become politicized.

Recently, a bipartisan group of 14 Senators joined together to avert an unnecessary showdown in the Senate over the effort to invoke the ''nuclear option.'' That would have changed 200 years of Senate tradition and the protection of minority rights. In their agreement the bipartisan coalition say the following:

> We believe that, under Article II, Section 2, of the United States Constitution, the word ''Advice'' speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.
>
> Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate.
>
> We firmly believe this agreement is consistent with the traditions of the United States Senate that we as Senators seek to uphold.

I agree. Bipartisan consultation is consistent with the traditions of the Senate and would return us to practices that have served the country well. They are right to urge greater consultation on judicial nominations.

In that regard, I was pleased to see the President respond to a question at a news conference 2 weeks ago by agreeing to consult with the Senate about his nomination should a vacancy arise on the Supreme Court. I see that as a positive development. More troubling are reports that the White House plan does not include meaningful consultation at all, but a ''war room'' and some sort of preemptive contact to allow them to pretend they consulted without anything akin to the kind of meaningful consultation this important matter deserves. If the White House intends to follow that type of plan, it would be most unfortunate, unwise and counterproductive.

Though the landscape ahead is sown with the potential for controversy and contention should a vacancy arise on the Supreme Court, confrontation is unnecessary. Consensus should be our mutual goal. I would hope that the President's objective will not be to send the Senate nominees so polarizing that their confirmations are eked out in narrow margins. This would come at a steep and gratuitous price that the entire Nation would have to pay in needless division. It would serve the country better to choose a qualified consensus candidate who can be broadly supported by the public and by the Senate.

The process begins with the President. He is the only participant in the process who can nominate candidates to fill Supreme Court vacancies. If there is a vacancy, the decisions made in the White House will determine whether the nominee chosen will unite the Nation or will divide the Nation. The power to avoid political warfare with regard to the Supreme Court is in the hands of the President. No one in the Senate is spoiling for a fight. Only one person will decide whether there will be a divisive or unifying process and nomination. If consensus is a goal, bipartisan consultation will help achieve it. I believe that is what the American people want and what they deserve.

If the President chooses a Supreme Court nominee because of that nominee's ideology or record of activism in the hopes that he or she will deliver political victories, the President will have done so knowing that he is starting a confirmation confrontation. The Supreme Court should not be an arm of the Republican Party, nor should it be a wing of the Democratic Party. If the right-wing activists who were disappointed that the nuclear option was averted convince the President to choose a divisive nominee, they will not prevail without a difficult Senate battle. And if they do, what will they have wrought? The American people will be the losers: The legitimacy of the judiciary will have suffered a damaging blow from which it may not soon recover. Such a contest would itself confirm that the Supreme Court is just another setting for partisan contests and partisan outcomes. People will perceive the Federal courts as places in which ''the fix is in.''

Our Constitution establishes an independent Federal judiciary to be a bulwark of individual liberty against incursions or expansions of power by the political branches. That independence is at grave risk when a President seeks to pack the courts with activists from either side of the political spectrum. Even if successful, such an effort would lead to decision-making based on politics and forever diminish public confidence in our justice system.

The American people will cheer if the President chooses someone who unifies the Nation. This is not the time and a vacancy on this Supreme Court is not the setting in which to accentuate the political and ideological division within our country. In our lifetimes, there has never been a greater need for a unifying pick for the Supreme Court. At a time when too many partisans seem fixated on devising strategies to force the Senate to confirm the most extreme candidate with the least number of votes possible, I have been urging cooperation and consultation to bring the country together. There is no more important opportunity than this to lead the Nation in a direction of cooperation and unity.

The independence of the Federal judiciary is critical to our American concept of justice for all. We all want Justices who exhibit the kind of fidelity to the law that we all respect. We want them to have a strong commitment to our shared constitutional values of individual liberties and equal protection. We expect them to have had a demonstrated record of commitment to equal rights. There are many conservatives who can meet these criteria and who are not rigid ideologues.

This is a difficult time for our country and we face many challenges. Providing adequate health care for all Americans, improving the economic prospects of Americans, defending against threats, the proliferation of nuclear weapons, the continuing upheaval and American military presence in Iraq, are all fundamental matters on which we need to improve. It is my hope that we can work together on many issues important to the American people, including maintaining a fair and independent judiciary. I am confident that a smooth nomination and confirmation process can be developed on a bipartisan basis if we work together. The American people we represent and serve are entitled to no less.

GUANTANAMO BAY

Mr. LEAHY. Mr. President, it has been well over 3 years since the administration began to hold detainees at the U.S. Naval Base in Guantanamo Bay, Cuba. The first batch of then only 20 detainees arrived in January 2002. There are now more than 500 detainees at Guantanamo. I cannot give you an exact number because our own Government refused to tell the American people an exact number.

In fact, there is much that we do not know about our Government's activities at Guantanamo. From the start, the administration's answer to every question regarding this secret detention facility has been: Trust us. Trust us that we know the law and that we will comply with it. Trust us to treat detainees humanely and in accordance with our laws and treaties and the great and wonderful traditions of the United States. Trust us that Guantanamo will make Americans safer. More than 3 years later, the one thing we know for sure about Guantanamo is that any trust we may have had was misplaced.

First, the administration either did not know or did not follow the law. The list of reversals of this administration's policies and practices at Guantanamo is long. From the Supreme Court's rejection of the claim that Guantanamo Bay is a land of legal limbo or, as one administration official said, ''the legal equivalent of outer space,'' to a recent district court holding that the current military commission regulations are unlawful, there is much that needs attention and correction.

Secondly, the administration has not lived up to its promise to treat detainees humanely. Even with the administration's continuing stonewalling against any independent investigation into the mistreatment of detainees, we continue to learn of more abuses on an almost daily basis. Does anybody question that if American POWs were being treated in this way, we would have demonstrations in the streets of America, and everybody from the President down through every single Member of Congress would be up in arms and calling for changes? But when these actions take place at Guantanamo, the administration refuses to acknowledge any wrongdoing. The dangerous implications that this posture has for our own troops and citizens becomes more obvious every day.

Third, and this is the bottom line: Guantanamo has not made our country safer. It is increasingly clear that the administration's policies have seriously damaged our reputation in the world, and they are making us less safe. The stain of Guantanamo has become the primary recruiting tool for our enemies. President Bush often speaks of spreading Democratic values across the Middle East, but Guantanamo is not a reflection of the values that he has encourages other nations to adopt. The United States has often criticized other nations for operating secret prisons where detainees are hidden away and denied any meaningful opportunity to contest their detention. Now we have our own such prisons. Even if the administration fails to see the hypocrisy of this situation, I can assure you, the rest of the world does not.

Guantanamo Bay, in addition to Abu Ghraib, is a national disgrace and international embarrassment to us, to our country's ideals, and a festering threat to our security. It is a legal black hole that dishonors the principles of a great nation. America was once very rightly viewed as a leader in human rights and the rule of law, but Guantanamo has drained our leadership, our credibility, and the world's good will for America at alarming rates. Even our closest allies cannot condone the policies embraced by this Government, not to mention the significant damage that has been caused by allegations and proven incidents of detainee abuse in Iraq, Afghanistan, and Guantanamo. These are not the policies of a great and good nation such as ours. This is not the American system of justice that I have grown up honoring and appreciating.

Within the last 2 weeks, I was at a meeting of NATO parliamentarians. These are parliamentarians from the countries that are our closest allies. They are members of the NATO alliance with the United States and proud to be part of that alliance. Every one of them I spoke with said the same thing: How can America continue to be a beacon for democracy with the stain of Guantanamo? Some of these countries were countries that originally had been behind the Iron Curtain. With the efforts of this administration and the Clinton administration, we see them now as proud members of NATO. They look to the United States for leadership, and they ask us: Why Guantanamo?

The 9/11 Commission understood that military strength alone is not sufficient to defend our Nation against terrorism. There has to be a role for working cooperatively with the rest of the world. In its report, the Commission said that the Government ''must define what the message is, what it stands for. We should offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors.'' Guantanamo Bay is not the way to do this.

The administration got itself into this mess because it refused to accept Congress as a partner in its so-called war on terror and insisted on acting unilaterally. It would not even involve Congress, even though Congress is controlled by members of the President's party. Following the start of combat in Afghanistan in October 2001, I urged President Bush to work with Congress to fashion appropriate rules and procedures for detaining and punishing suspected terrorists. All of us agree, if you have terrorists, if it is proven they are terrorists, they should be detained and punished. As I noted at the time, our Government is at its strongest when the executive and legislative branches of Government act in concert. Unfortunately, the President was determined to go it alone.

Up until now, this Republican-led Congress has been content to go along for the ride. As the administration dug itself deeper and deeper into a hole, we stood idly by. Instead of providing checks and balances, we simply wrote one blank check after another.

This has to change. The Constitution provides that Congress, not the President, has the power to ''make Rules concerning Captures on Land and Water.'' Congress, not the President, has the power to ''define and punish Offenses against the Law of Nations.'' And perhaps most importantly, Congress, not the President, has the power of the purse. Maybe each one of us should take a few moments and reread the Constitution that we are sworn to uphold.

What is the administration's plan for Guantanamo Bay, assuming there is one? What does the administration intend to do with the more than 500 detainees still imprisoned there? How many will be released and when? How many will be charged and tried and when?

The administration consistently insists that these detainees pose a threat to the safety of Americans. The Vice President said that the other day. If that is true, then one would have to assume we have credible evidence to support it. If there is such evidence, then let's prosecute these people. If we have the evidence, prosecute them.

But we also know that some of the detainees have been wrongly detained. I suspect there are others who have not yet been released against whom the evidence is weak at best. It is one thing if they are being detained in accordance with the Geneva Conventions. But if not, they do not belong there.

Guantanamo Bay is causing immeasurable damage to our reputation as a defender of democracy and beacon of human rights around the world. It is

becoming a legal black hole, a rallying cry for our enemies, fueling hostilities against us and our policies.

We have always been able to say that those who strike out against us do not uphold the rule of law as we do. We have always been able to point out that the kind of actions they carry out are horrible, horrific. And every one of us, Democrat and Republican, have found them abhorrent and have said so.

Yet the administration has not articulated a coherent plan to repair the damage. Every one of us knows from what we hear around the world that we have been damaged by Guantanamo. Why carry out acts that do not follow our own laws, our own Constitution, our own tradition? We need a plan from the administration to repair this damage. The Congress has abdicated its oversight responsibility for far too long. The Administration has placed this nation in an untenable situation, and it is time for Congress to demand a way out.

Mr. President, as I said, this doesn't reflect the feeling of just the Democratic Senator from Vermont. Similar expressions have been made by Republicans and Democrats, leading people in this country, people I respect greatly, who point out what we all know—and maybe we don't like to talk about it—Guantanamo is a blot on the conscience of America—a good and great conscience, one that has been a shining beacon to so many countries. Let's not allow this blot. Let's take the steps necessary to erase it.

CONGRATULATIONS ZOE DELL NUTTER

Mr. VOINOVICH. Mr. President, I rise to celebrate the remarkable life of one of Ohio's most extraordinary women, Zoe Dell Nutter, a person whom my wife Janet and I count among our very dearest friends.

Professional dancer and model, successful businesswoman, renowned aviatrix, newspaper columnist and generous philanthropist, Zoe Dell Nutter has been each of these and so much more.

Today, she has one more entry to her long list of credits, awards, and achievements—her 90th birthday. Zoe Dell's life has taken her to so many places, called her into so many fascinating career pursuits, driven her to give so much back to her community, State, and Nation, and, lastly, rewarded her with so many accolades, honors along the way that I could never do her story justice on this floor.

I will spend a moment describing the wonderful friendship Janet and I have shared with Zoe Dell. It was truly a friendship at first sight when we all met on a long day back in 1979. Erv and Zoe Dell were the loves of one another's eyes, true life partners who shared the same dreams, interests, and passions through their marriage. Janet and I were always so impressed with how supportive they were of one another and how proud and respectful they were of each other's careers. They had a genuine concern for their family, extended family, and community. Above all else, they were a truly devoted couple. And I know that the bond Janet and I forged with them is, in part, a reflection of the devotion to each other we have treasured over the 42 years of our marriage.

I would ask each of you here today to reflect on your own lives, and on those special friendships that are so vital to your happiness. Sometimes I think our fellow citizens do not realize that the most significant friendships enjoyed by those of us in public service are usually with people who are far removed from politics and governing. So it has been with the Nutters and the Voinovichs.

Of all the remarkable things Zoe Dell has done in her life, perhaps nothing else quite compares with her love for flying and her accomplishments both as a gifted aviatrix and a tireless champion of aviation. She first took to the skies in the 1940s, when women were not exactly encouraged to be pilots. Zoe Dell persevered and excelled. And in so doing, she helped make it possible for little girls around the world to add ''aviation'' to the list of dreams that they might dream.

One of Zoe Dell's greatest contributions to aviation was a dream of her own—a vision that the industry should have its own hall of fame. Because of her, I became interested, as Governor, in helping to make her dream a reality in Ohio. And why not? Let me repeat the names of some of America's foremost aviation pioneers: the Wright Brothers, John Glenn, Neil Armstrong, and, yes, Zoe Dell Nutter—Ohioans, one and all.

Janet and I worked tirelessly with Zoe Dell and Erv on the hall of fame project, but it was always Zoe Dell who was the heartbeat of the initiative. We were successful in making it a true public-private partnership and today the Aviation Hall of Fame in Dayton is a sparkling jewel in the crown of Ohio's contributions to aviation. Thank you, Zoe Dell, one more time, for your vision, for your commitment, and for your own numerous contributions to aviation.

Zoe Dell hung up her pilot's wings a number of years back. But I can guarantee you, she is wearing another set of wings that will be with her all the days of her life—angel's wings.

Janet and I treasure our friendship with Zoe Dell. And I am humbled to place this tribute into the CONGRESSIONAL RECORD, acknowledging the venerable milestones Zoe Dell Nutter has reached on this day, and, more importantly, a life so fully lived.

May she enjoy many more years of good health and God's blessing.

LATVIA, UKRAINE, RUSSIA, JORDAN AND IRAQ

Mr. MCCONNELL. Mr. President, over the Memorial Day recess my colleagues from Idaho and South Carolina joined me on a trip to Europe and the Middle East to review political and economic developments in emerging democracies, and U.S. security and foreign assistance activities that support the march of freedom in those regions. I want to take a brief moment to share with my colleagues some of the trip highlights.

Our first leg took us to Latvia, where Senators CRAPO and DEMINT and I met with senior government officials and President Vaira Vike-Freiberga. Although a young democracy, Latvia is unquestionably headed in the right direction. A painful and horrific past under Soviet occupation has seemingly steeled in that country's national consciousness a drive and determination toward freedom and free markets. Not surprisingly, Latvian officials today are keenly aware of events in neighboring Russia, and expressed concern with what they perceive as growing authoritarianism in Moscow.

A member of NATO and the EU, Latvia recognizes that while it continues to make forward progress at home, including passage of important money-laundering legislation, it has an important role to play in the region and beyond. I again want to express my heartfelt appreciation to the people of Latvia for their support of military operations in Iraq and democracy in neighboring Belarus, Ukraine, and Georgia.

U.S. Ambassador Cathy Bailey and her staff, particularly Mark Draper, deserve praise for representing America's interests in Riga ably, continuing to strengthen U.S.-Latvian bilateral relations, and providing outstanding support throughout our visit, including setting up a meeting with the Belarusian opposition. I am particularly proud of Cathy as she is a Kentuckian; she is doing the Commonwealth proud.

From Latvia we traveled to Russia, where the contrast between the two countries was immediate. Although Moscow has physically changed since my last visit in 1993, a bumbling Soviet-era bureaucracy and suspicion of the United States unfortunately remain.

Cooperation on issues of mutual importance to the United States and Russia must continue, including countering terrorism, preventing the proliferation of weapons and materials of mass destruction, and dealing with the challenges of Iran and North Korea. However, concerns expressed in Latvia—and later in Ukraine—on the rollback of democracy in that country were underscored in a meeting we had with a dynamic member of Russia's Duma, and the 9-year prison sentence handed down to ex-YUKOS tycoon Mikhail Khodorkovsky while we were in Moscow.

I echo the calls by President Bush and Secretary of State Rice for greater support and respect for democracy and the rule of law by President Putin and

the Russian Government. I would only add that with respect to regional relations, it is in Russia's interest that its neighbors are democratic. It is my view that greater freedom can provide the stability that the Kremlin apparently seeks in Ukraine, Georgia and elsewhere.

In Ukraine, we met with a broad range of government and former government officials to discuss the Orange Revolution, and the need for critical economic reforms that Ukraine must implement in order to fulfill its aspirations for entry into the WTO, EU and NATO. While it is clear that President Yushchenko and Prime Minister Tymoshenko understand the hard work that lies ahead, they—and other key leaders—must keep their collective noses to the grindstone to implement economic reforms as quickly as possible.

As a long time Ukraine-watcher, it is my hope that Yushchenko and Tymoshenko do not repeat the mistakes of previous governments that led to massive corruption and political shenanigans following independence in 1991. The recent failure of the Rada to pass intellectual property rights legislation—which is essential to WTO entry—is a cause for concern. However, Ukrainians should know that America is ready and willing to help further freedom in their country. This was no more clearly demonstrated than through the $60 million provided for Ukraine in the recently passed emergency supplemental.

I know my fellow Senators will agree that U.S. Ambassador John Herbst and his staff deserve recognition for doing a great job. They made sure that our visit included differing views on the Orange Revolution, including those of former President Leonid Kravchuck and Yushchenko-challenger Viktor Yanukovych, both of whom were at dinner one night at the Ambassador's house, and had very different views, obviously, than those expressed by the President and Prime Minister.

From Ukraine we traveled to Jordan where we met with King Abdallah. We discussed regional issues, particularly Iraq and prospects for peace on the West Bank and Gaza. King Abdallah is clearly engaged on both issues and we appreciate that he continues to be a valued partner for peace.

Given aircraft mechanical problems, our visit to Iraq was somewhat abbreviated. Nonetheless, we departed Baghdad with an unmistakable conclusion: 2005 is a critical year for the future of democracy in that country—and for our own country's efforts to help the Iraqi people secure the blessings of liberty. The Iraqi people face a number of looming deadlines, including drafting a new constitution by August 15, holding a national referendum on the constitution by October 15, and conducting national elections to form a new government by December 15. So they have several deadlines ahead of them on the road to democracy. The participation of Sunni, Shiite and Kurdish representatives in this process is absolutely imperative. According to an Iraqi parliamentarian we met, the Iraqi people are up to this challenge. They should know that America will continue to stand with them.

In Baghdad, we met with David Satterfield, our Charge d'Affaires, General George Casey, and General David Petraeus. The view expressed by our general officers in Baghdad—that the Iraqi Army has made considerable progress—was shared by the Commander of the Second Marine Expeditionary Force in Fallujah, General Steve Johnson.

In Fallujah, we met with a task force of Marines determined that the heroic combat operations required to take the city should be followed by successful reconstruction efforts. They told us that Iraqi forces are combat ready, and determined in the face of enemy opposition. Recent press reports regarding Operation Matador, and the discovery of an insurgent underground bunker system, reveal only a small part of the great work that our forces are doing in Anbar province.

On a personal note, in Fallujah I was reunited with 2LT Joe Bilby of the Third Battalion, Eleventh Marine Regiment. This young officer once worked on my staff here in the Senate, heard the call of duty, and earned a commission in the Marine Corps. His unit is executing a mission critical to our success in Iraq. The people of Kentucky, and the rest of the country, should be proud of Lieutenant Bilby and his Marine band of brothers.

Let me close by pointing out that critical to the success of freedom in any country is strong and effective leadership that includes the political will to implement needed political, economic and legal reforms. As in previous years, my staff and I will be using this measurement as we put together the fiscal year 2006 State, Foreign Operations, and Related Programs appropriations bill in the weeks to come.

CBO REPORT

Mr. DOMENICI. Mr. President, at the time Senate Report No. 109–78 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report, which is now available, be printed in the CONGRESSIONAL RECORD for the information of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Energy Policy Act of 2005—As ordered reported by the Senate Committee on Energy and Natural Resources on May 26, 2005

Summary: The legislation would authorize funding for several programs aimed at energy production, conservation, and research and development. It would authorize the use of energy savings performance contracts (ESPCs), make several changes to the regulatory framework governing the nation's electricity system, and establish a mandate for the use of renewable fuels.

Most of the bill's estimated costs would stem from changes in spending subject to appropriation. We estimate that implementing the bill would cost $5.1 billion in 2006 and $35.9 billion over the 2006–2010 period from appropriated funds, assuming appropriation of the necessary amounts.

CBO estimates that enacting the bill also would increase direct spending by $728 million over the 2005–2010 period but would reduce direct spending by $591 million over the 2005–2015 period. CBO estimates that enacting the bill would increase net revenues by $75 million in 2006 and would result in a net loss of revenues totaling $1.2 billion over the 2006–2010 period and $1.0 billion over the 2006–2015 period.

The bill contains numerous mandates as defined in the Unfunded Mandates Reform Act (UMRA) that would affect both intergovernmental and private-sector entities.

CBO cannot determine the cost of all the mandates in the bill because several of the requirements established by the bill would hinge on future regulatory action about which information is not available. Though CBO cannot estimate the cost of each mandate, we expect that the total cost of private-sector mandates in the bill would exceed the annual threshold established in UMRA ($123 million in 2005, adjusted annually for inflation). That conclusion is based on our analysis of the renewable fuels standard, which would impose substantial costs on the motor fuels industry.

CBO estimates, however, that the total cost of complying with intergovernmental mandates in the bill would not exceed the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation). The bill also would authorize numerous grants and initiatives that would benefit state, local, and tribal governments; any costs those governments incur for these projects and initiatives would result from complying with conditions for receiving this federal assistance.

Based on its review of the bill, CBO expects that the mandates contained in the bill's titles on renewable energy (title II), nuclear energy (title VI), electricity (title XII), and energy efficiency (title I) would have the greatest impact on private-sector entities and state and local governments.

Estimated cost to the Federal Government: The estimated budgetary impact of the legislation is shown in Table 1. The costs of this legislation fall within budget functions 270 (energy), 300 (natural resources and environment), 350 (agriculture), 450 (community and regional development) and 800 (general government).

Basis of estimate

For this estimate, CBO assumes that the Energy Policy Act of 2005 will be enacted near the end of fiscal year 2005. Additionally, CBO assumes that the authorized and necessary amounts will be appropriated for each year and that spending will follow historical rates for ongoing activities. Table 2 details the components of estimated spending subject to appropriation under the bill. (Table 3, provided later, details the bill's direct spending effects.)

Spending subject to appropriation—Overview

The bill contains several provisions that specify amounts authorized to be appropriated for programs related to energy research, development, production, and conservation. Additionally, the bill would authorize unspecified amounts to be appropriated for energy conservation, loan guarantees for certain energy facilities and projects to develop innovative technologies,

incentives to use renewable energy, and several other energy programs, studies, and reports. Assuming appropriation of the necessary amounts, CBO estimates that implementing these provisions would cost $5.1 billion in 2006 and $35.9 billion over the 2006–2010 period. The following two sections detail the costs of specified and estimated authorizations. (A discussion of direct spending and revenue effects follows the next two sections.)

TABLE 1.—ESTIMATED BUDGETARY IMPACT OF THE ENERGY POLICY ACT OF 2005

	By fiscal year, in billions of dollars—					
	2005	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Energy Science Programs:						
Budget Authority [1]	6.0	0.0	0.0	0.0	0.0	0.0
Estimated Outlays	5.4	2.9	0.6	0.1	*	*
Proposed Changes:						
Specified Authorization Levels:						
Authorization Level	0.0	9.7	10.5	11.5	2.4	2.5
Estimated Outlays	0.0	4.8	8.8	10.6	6.9	3.2
Estimated Authorization Levels:						
Estimated Authorization Level	0.0	0.4	0.3	0.4	0.3	0.3
Estimated Outlays	0.0	0.3	0.3	0.4	0.3	0.3
Total Proposed Changes:						
Estimated Authorization Level	0.0	10.1	10.8	11.9	2.7	2.8
Estimated Outlays	0.0	5.1	9.2	10.9	7.2	3.5
Spending Under the Energy Policy Act of 2005 for Energy and Science Programs:						
Estimated Authorization Level	6.0	10.1	10.8	11.9	2.7	2.8
Estimated Outlays	5.4	8.0	9.7	11.0	7.2	3.6
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	*	0.1	0.4	0.3	0.1	−0.1
Estimated Outlays	*	0.1	0.3	0.3	0.1	−0.1
CHANGES IN REVENUES						
Estimated Revenues	0.0	0.1	*	−0.2	−0.4	−0.7

[1] The 2005 amount is the amount appropriated for that year for energy conservation, development, production, and science programs.
Notes: * = less than $50 million.
Components may not sum to totals because of rounding.

TABLE 2.—ESTIMATED EFFECTS OF THE ENERGY POLICY ACT OF 2005 ON SPENDING SUBJECT TO APPROPRIATION

	By fiscal year, in billions of dollars—					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Discretionary Spending Under Current Law for Energy and Science Programs:						
Budge Authority [1]	5,953	0	0	0	0	0
Estimated Outlays	5,366	2,882	556	86	29	29
Proposed Changes:						
Specified Authorization Level	0	9,684	10,454	11,492	2,440	2,539
Estimated Outlays	0	4,765	8,843	10,553	6,889	3,228
Estimated Authorizations:						
Energy Conservation Measures at Federal Agencies:						
Estimated Authorization Level	0	93	99	106	107	114
Estimated Outlays	0	76	98	105	108	113
Loan Guarantees for Innovative Technologies:						
Estimated Authorization Level	0	85	85	85	85	60
Estimated Outlays	0	85	85	85	85	60
Indian Energy Programs:						
Estimated Authorization Level	0	36	51	61	71	56
Estimated Outlays	0	21	41	55	67	60
Renewable Energy Production Incentive (REPI):						
Estimated Authorization Level	0	100	23	13	8	27
Estimated Outlays	0	70	46	16	10	21
Cellulosic Biomass and Cane Sugar Loan Guarantee:						
Estimated Authorization Level	0	30	0	40	0	40
Estimated Outlays	0	30	0	40	0	40
Other Provisions:						
Estimated Authorization Level	0	46	50	56	14	14
Estimated Outlays	0	43	49	56	14	14
Subtotal, Estimated Authorizations:						
Estimated Authorization Level	0	390	307	360	284	310
Estimated Outlays	0	325	318	357	283	307
Total Proposed Changes:						
Estimated Authorization Level	0	10,073	10,761	11,852	2,724	2,849
Estimated Outlays	0	5,090	9,161	10,910	7,172	3,535
Discretionary Spending Under the Bill for Energy and Science Programs:						
Estimated Authorization Level [1]	5,953	10,073	10,761	11,852	2,724	2,849
Estimated Outlays	5,366	7,972	9,717	10,996	7,201	3,564

[1] The 2005 amount is the amount appropriated for that year for energy conservation, development, production, and science programs.

Spending subject to appropriation: specified authorizations

The legislation would specifically authorize the appropriation of $36.6 billion over the next five years for several energy-related programs. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill's programs with specified authorizations would cost $4.8 billion in 2006 and $34.3 billion over the 2006–2010 period. That estimate includes:

Nearly $2.5 billion for the Department of Energy's (DOE's) energy conservation programs (title I);

Nearly $700 million for renewable energy grants and research projects (title II);

$3.3 billion for programs related to federal oil and gas resources and for financial assistance to coastal states (title III);

$400 million to research and demonstrate new technologies that use coal (title IV);

$134 million for programs to research and develop energy resources on Indian lands (title V);

About $540 million for a new program to research, develop, design, construct, and operate an Advanced Reactor Hydrogen Cogeneration Project and $16 million for a nuclear decommissioning project in Arkansas (title VI);

About $450 million for research and demonstration of vehicles that use alternative transportation fuels (title VII);

$2.8 billion for research, development, and demonstration of hydrogen-based fuel technologies and infrastructure for hydrogen fuels (title VIII);

$23 billion to research energy efficiency technologies, renewable energy sources, fossil energy development, basic science, and other energy sources and new technologies (title IX);

$45 million to promote a technology infrastructure program and support small business participation in DOE research activities (title X);

About $300 million for training personnel to work in the energy technology industry, and providing awards and fellowships in science, mathematics, and energy education (title XI); and

About $40 million for incentive payments for advanced power technologies (title XII).

Spending subject to appropriation: Estimated authorizations

Based on information from DOE, the Department of the Interior (DOI), the Environmental Protection Agency (EPA), other affected agencies, and industry sources, CBO estimates that implementing the provisions of the bill that are subject to appropriation and have no specified authorization level

would cost $325 million in 2006 and $1.6 billion over the 2006–2010 period. Key components of this estimate are described below.

Energy Conservation at Federal Agencies. Title I would amend several energy conservation goals and requirements that apply to the federal government. CBO estimates that implementing those provisions would cost $500 million over the 2006–2010 period, subject to appropriation of the necessary amounts. Most of those goals, such as reducing energy use by 2 percent per year relative to 2003 consumption and purchasing energy-efficient products when economical, are being pursued under current executive orders. Where practical, the bill would require that hourly electricity meters be installed at all federal buildings by 2012. Such meters would provide data at least once daily and measure hourly consumption of electricity. The data would be available to facility energy managers.

Based on information from the DOE, we assume that it would only be economical to meter 20 percent of the government's inventory of 500,000 buildings and that installing meters would cost, on average, $4,000 per building. We assume that meters would be installed in 20,000 buildings per year until 2012, when the project would be complete. We estimate that implementing the metering provisions of the legislation would cost $57 million in 2006 and $323 million over the 2006–2010 period. CBO estimates that other requirements in this title, such as providing technical assistance to states, establishing new programs and rules for making products more energy-efficient, and monitoring the equipment installed using energy savings performance contracts would cost $19 million in 2006 and $177 million over the next five years.

Based on experience in the private sector, metering the hourly electricity use of buildings can lead to reduced energy consumption and reduce costs enough to recoup the cost of installing meters within two to four years. It is possible that this requirement could lead to a future reduction in appropriations for energy use in federal buildings, but any such savings would depend on how metering information is used by federal agencies. Additionally, metering can reveal where energy use is high, but capital investment and other changes in how federal buildings consume energy would likely be needed to achieve savings. In any case, any savings are not likely to be significant over the next five years because most of the new metering and required capital investment would not be completed until the end of that period or after 2010.

Loan Guarantees for Innovative Technologies. The bill would establish a credit assistance program for energy production technologies that reduce greenhouse gas emissions and employ new or significantly improved technologies over those currently available. Currently, DOE has no authority to provide credit assistance and has developed no plans for how it would use this authority. For this estimate, we assume DOE would provide an 80 percent guarantee of loans worth about $3.75 billion over the 2006–2010 period. Assuming appropriation of the necessary amounts, CBO estimates that implementing this provision would cost $400 million over the 2006–2010 period and an additional $200 million after that. CBO assumes—after providing loan guarantees for $3.75 billion worth of projects over the next five years—that DOE's credit assistance under the program would probably accelerate after that period as the department gained experience. The department could offer more or less credit assistance than we have assumed here. All costs of such credit assistance would be subject to appropriation.

Description of Loan Guarantee Program. The bill would provide DOE with broad authority to make loan guarantees to a variety of energy projects, ranging from renewable energy systems, to advanced nuclear energy facilities, integrated coal gasification combined-cycle technology, petroleum coke gasification technology, and carbon sequestration technology, as well as other new technologies. The legislation sets no limits on the number of projects, or total principal that could be guaranteed, nor does it indicate any priority for one type of project over another.

Under the bill, DOE could not guarantee loans for more than 80 percent of a project's cost; it could sell, manage, or hire contractors to take over a facility to recoup losses in the event of a default, or it could take over a loan and make payments on behalf of borrowers prior to a default. Such payments could result in DOE effectively providing a direct loan with as much as a 100 percent subsidy rate—essentially a grant—that could be used by the borrower to payoff its debts.

Under the Federal Credit Reform Act, funds must be appropriated in advance to cover the subsidy cost of loan guarantees, measured on a present value basis. The costs of such subsidies could vary widely depending on the terms of the contracts and the financial and technical risk associated with different types of projects. According to Standard and Poor's, the cumulative default risk for projects rated as speculative investments can range from about 20 percent to almost 60 percent, depending on a project's cash flows and contractual terms. Subsidy costs also are affected by amounts that could be recovered by the government in the event of default, which in turn depend on the value of the security backing the guarantee as well as contractual protections. For this estimate, CBO assumes that, over the next five years, DOE would not provide guarantees to projects with a subsidy cost greater than 20 percent.

The bill would authorize DOE to accept payments from borrowers sufficient to cover the subsidy cost of loan guarantees. However, because the technologies covered by the program would be new and would be seeking government backing, CBO expects that projects seeking a guarantee would not be in a position to fund the federal subsidy cost of a loan guarantee. The bill specifies that DOE shall charge fees to cover the costs of administering the credit program.

Types of Projects Guaranteed. The legislation contains general guidelines that projects must meet to qualify for credit assistance and specifies criteria for selecting at least two coal gasification projects. For purposes of this estimate, we assume that DOE would guarantee about $3 billion in coal gasification projects, which would include the two specified in the legislation and at least one other project. We also assume that the department would use the authority in the bill to provide loan guarantees for $625 million worth of renewable energy systems, such as biomass or geothermal electricity plants.

Coal Gasification. Gasification projects require large capital investments, ranging from over $500 million for a 400 megawatt gasification plant to $1 billion or more for a plant that would produce electric power and other fuels using petroleum coke. Such gasification technologies are not new—they have been tested and deployed to some extent in other countries—but they have not been proven economically competitive in the United States. Profitability would depend on numerous factors, including future electricity and fuel prices; the price, quality, and availability of feedstocks; and various regulatory approvals.

For this estimate, CBO assumes that DOE would provide an 80 percent guarantee on investments totaling about $3 billion over the next five years, which would include the planning and construction of the two coal gasification plants specifically mentioned in the legislation and additional investment in other clean coal technologies.

Given the current outlook for energy prices, CBO expects that the credit risk of gasification loans would likely fall within the middle of the range for speculative investments, but the risk of default could be higher or lower depending on the contract terms and specific technology. CBO estimates that loan guarantees for such projects would probably involve a 20 percent subsidy. Thus, we estimate that implementing this provision would cost $350 million over the 2006–2010 period, assuming appropriation of the necessary amounts. Additional outlays of $150 million would occur after 2010 as construction progressed on such projects.

Renewable Energy. The legislation also would authorize DOE to make loan guarantees for renewable energy projects such as biomass and geothermal sources for electricity generation. Such projects could range in cost from $10 million for a small 5 megawatt geothermal plant to $250 million for an ethanol production plant. We expect that subsidy rates for loans guaranteed under this title would be 20 percent. For this estimate, we assume that $625 million worth of renewable energy projects would receive an 80 percent loan guarantee over the next 5 years. Such loan guarantees for renewable energy systems would cost $50 million over the 2006–2010 period, and an additional $50 million after that period.

Nuclear Energy. Because of DOE's support of emerging nuclear technology through a current program called Nuclear Power 2010, we expect that the department would use the program to provide a guarantee to at least one new nuclear facility over the 2011–2015 period. Such a guarantee could be for more than $2 billion and carry a significant subsidy cost (perhaps as much as 30 percent).

Indian Energy Programs. Title V would authorize the Department of the Interior to provide grants and loans to Indian tribes for energy resource development projects. That title also would authorize DOE to provide loan guarantees for energy development projects on Indian land and to establish an Office of Indian Energy Policy and Programs. In total, CBO estimates that these programs would cost $21 million in 2006 and $244 million over the 2006–2010 period.

DOI Grants and Loans. The bill would authorize DOI to provide loans and grants to Indian tribes for energy resource development and integration and regulation of tribal energy resources and to develop energy resource agreements through leases, business agreements, and rights-of-way. Based on information from DOI, CBO estimates that such grants and loans would cost about $11 million in 2006 and $97 million over the 2006–2010 period.

DOE Loan Guarantees. Title V would authorize the Secretary of Energy to guarantee up to $2 billion in loans for energy projects on Indian lands. Based on information from the Council of Energy Resource Tribes, CBO expects that DOE would provide loan guarantees for a variety of projects on Indian lands, including electricity transmission lines, fossil fuel electricity generation, and renewable fuels. CBO expects that the subsidy cost of loans guaranteed under this program could range from 2 or 3 percent for routine conventional projects to 50 percent or more for unproven technologies.

For this estimate, CBO assumes that about half of the program would provide loan guarantees for electricity transmission lines,

which should pose relatively little credit risk under standard contract terms. We assume that the remaining loan guarantees would be divided between fossil fuel electricity generation and renewable fuel projects. Under these assumptions, we estimate that the average subsidy cost for loans guaranteed under the program would be 10 percent. CBO expects that loans would be disbursed over the next 10 years, and we estimate that the loan guarantee program would cost $7 million in 2006 and $132 million over the 2006–2010 period, assuming appropriation of the necessary amounts for the estimated subsidy costs.

Office of Indian Energy Policy and Programs. The bill also would authorize DOE to establish a new office that would be responsible for promotion and development of Indian tribal energy concerns. Based on information from DOE, CBO estimates that the salaries, expenses, benefits, space, and travel costs of the DOE employees that would administer such programs would be about $3 million annually.

Renewable Energy Production Incentive (REPI). The REPI program currently provides cash payments to public utilities and electric cooperatives that generate energy using renewable sources. The payment is based on the annual kilowatt-hours of electricity generated using qualified renewable energy sources. Section 202 would reauthorize the REPI program for an additional 20 years, and make Indian tribes eligible for the program. Annual funding appropriated for the program has not kept pace with applications for payment from eligible utilities. Specifically, eligible utilities have generated electricity from renewable resources since 1994 in an amount that qualifies for about $76 million in REPI payments that have not been appropriated. Based on information from DOE, CBO estimates that fully funding this program, including the backlog of applications, would cost $70 million in 2006 and $163 million over the 2006–2010 period.

Cellulosic Biomass and Cane Sugar Loan Guarantee Program. Section 204 would authorize DOE to issue loan guarantees to help finance the construction of facilities to produce fuel ethanol from agricultural residue. The development of such facilities poses some risk mainly because the technology that would be used to process ethanol from such sources is new and is not well-proven.

For this estimate, we expect that such facilities would be debt-financed and sponsors would recover costs through the sale of ethanol. Prices for ethanol have a history of fluctuating widely and the likelihood of future fluctuations could contribute additional credit risk for such a project. Moreover, the cash flow for these projects also would rely heavily on the cost of purchasing feedstock. According to DOE, a plant's reliance on feedstock from these sources would increase a project's credit risk because prices for feedstock can become competitive if demand for such products increases.

Under credit reform procedures, funds must be appropriated in advance to cover the subsidy cost of loan guarantees, measured on a present value basis. Because of the significant level of risk associated with these types of projects, the costs of subsidizing such loan guarantees could vary widely. At worst, the government could absorb all of the risk, effectively converting the loan guarantees into grants. This provision would authorize DOE to issue loan guarantees limited to $250 million per project. However, the provision does not set any limits on the number of loan guarantees that could be made. Under this legislation, an applicant for a loan guarantee would have to be currently operating an existing facility that produces at least 50,000 gallons of ethanol per year.

CBO estimates that, over the next five years, DOE would probably provide loan guarantees for three projects, each with a total construction cost of about $250 million. Because the bill also would require applicants to contribute at least 20 percent of the project's total cost, CBO estimates that the value of each loan guarantee would be about $200 million. In addition, based on information from DOE, CBO assumes that the department would seek projects with a financial outlook similar to those of bonds rated B- or better by companies such as Standard and Poor's and Moody's. Projects with this rating typically have a cumulative default risk of over 40 percent. Under those assumptions, CBO estimates that loans guaranteed under the bill would be likely to have a subsidy rate between 15 percent and 20 percent and would cost $110 million over the 2006–2010 period.

Electricity Regulations. Title XII would require the Federal Energy Regulatory Commission (FERC) to establish several new rules for managing the nation's electricity system and governing the business practices of the electricity industry. Such rules would affect transmission services, construction and siting permits for building new transmission lines, and the reliability of the nation's electricity transmission infrastructure. The bill also would repeal the Public Utility Holding Company Act of 1935, require FERC to take over certain regulatory procedures currently undertaken by the Securities and Exchange Commission, and amend the Public Utilities Regulatory Policies Act.

Based on information from FERC, CBO estimates that implementing these provisions would cost $11 million in 2006 and $47 million over the 2006–2010 period. Such costs would cover additional data processing and storage, additional staff, and travel related to the agency's new duties. Because FERC recovers 100 percent of its costs through user fees, such additional costs would be offset by an equal change in fees that the commission charges. Hence, these provisions would have no net budgetary impact.

Other Provisions. The bill includes several provisions that would authorize various new studies, reports, and activities related to energy consumption and production. Those provisions would authorize federal agencies to:

Establish new programs related to federal oil and natural gas resources;

Authorize a direct loan to upgrade a non-operational clean-coal technology plant in Alaska to a traditional coal-fired electricity plant;

Reorganize certain offices within DOE; and

Prepare several other studies and reports on energy resources and efficiency.

Based on information from the agencies that would be responsible for implementing these provisions, CBO estimates that these activities would cost $43 million in 2006 and $176 million over the 2006–2010 period, subject to the availability of appropriated funds.

Direct spending and revenues

Several provisions in the bill would affect direct spending and revenues. The estimated effects of these provisions are shown in Table 3. The bill would establish a mandate for the use of renewable motor fuels, provide permanent authorization for the use of energy savings performance contracts; establish an Electric Reliability Organization to manage the reliability of the nation's electricity system; allow the Western Area and Southwestern Power Administrations to accept up to $100 million in financing from private sources for electricity transmission projects; make changes to federal programs related to oil and natural gas; and require the Rural Utilities Service to change the terms of certain loans.

CBO estimates that enacting the bill also would increase direct spending by $728 million over the 2005–2010 period but would reduce direct spending by $591 million over the 2005–2015 period. CBO estimates that enacting the bill would increase net revenues by $75 million in 2006 and would result in a net loss of revenues totaling $1.2 billion over the 2006–2010 period and $1 billion over the 2006–2015 period. In addition, we estimate that new civil penalties imposed by the bill would result in an increase in revenues of less than $500,000 annually.

TABLE 3.—ESTIMATED DIRECT SPENDING AND REVENUE EFFECTS ON THE ENERGY POLICY ACT OF 2005

	By fiscal year in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING											
Renewable Fuels Requirement and Agricultural Support Programs:											
Estimated Budget Authority	0	0	−59	−164	−366	−569	−669	−697	−750	−768	−771
Estimated Outlays	0	0	−59	−164	−366	−569	−669	−697	−750	−768	−771
Energy Savings Performance Contracts:											
Estimated Budget Authority	0	0	301	307	314	320	327	334	341	348	355
Estimated Outlays	0	0	256	306	313	319	326	333	340	347	354
Electric Reliability Organization:											
Estimated Budget Authority	0	100	102	104	106	108	110	113	115	117	120
Estimated Outlays	0	100	102	104	106	108	110	113	115	117	120
Financing of Federal Electricity Transmission Projects:											
Estimated Budget Authority	0	0	50	0	50	0	0	0	0	0	0
Estimated Outlays	0	0	10	20	30	20	20	0	0	0	0
Federal Oil and Natural Gas Programs:											
Estimated Budget Authority	0	8	7	10	9	12	5	11	8	10	7
Estimated Outlays	0	8	7	10	9	12	5	11	8	10	7
Assistance for Rural Communities with High Energy Costs:											
Estimated Budget Authority	46	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	46	0	0	0	0	0	0	0	0	0	0
Total Changes in Direct Spending Under the Energy Policy Act of 2005:											
Estimated Authorization Level	46	108	401	257	113	−129	−227	−239	−286	−293	−289
Estimated Outlays	46	108	316	276	92	−110	−208	−240	−287	−294	−290

TABLE 3.—ESTIMATED DIRECT SPENDING AND REVENUE EFFECTS ON THE ENERGY POLICY ACT OF 2005—Continued

	By fiscal year in millions of dollars—										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN REVENUES [1]											
Renewable Fuels Requirement	0	0	−64	−264	−509	−754	−262	0	0	0	0
Electric Reliability Organization—Fees Charged on Electricity Consumers	0	75	77	78	80	81	83	84	86	87	89
Total Changes in Revenues Under the Energy Policy Act of 2005	0	75	13	−186	−429	−673	−179	84	86	87	89

[1] Net of income and payroll tax offsets.

Renewable Fuels Requirement and Agricultural Support Programs. CBO estimates that enacting section 204 would lower direct spending by about $4.8 billion over the next 10 years and lower revenues by about $1.9 billion over the same period.

Section 204 would require that motor fuels sold by a refiner, blender, or importer contain specified amounts of renewable fuel. The required volume of renewable fuel would start at 4 billion gallons in 2006, escalate to 8 billion gallons for 2012, and increase thereafter at the rate of growth in gasoline consumption. CBO expects that the use of renewable fuels would be significantly affected starting in 2007, when the bill's renewable fuel requirement would exceed the amount of renewable fuel use CBO estimates under current law.

CBO expects that most of the fuel produced to meet the requirements under the bill would be ethanol. Because ethanol is primarily derived from corn, demand for corn would rise with the requirement to use more ethanol. CBO expects that com prices would increase up to 10 percent by the end of the 2007–2015 period. Accordingly, the costs of federal programs to support farm prices and provide income support to agricultural producers would fall over the 2007–2015 period. CBO estimates that spending for farm price and income supports would decline by about $4.8 billion over the 2007–2015 period.

Section 204 also would affect revenues. Because ethanol-blended fuels are taxed at a lower rate than gasoline, receipts from taxes on motor fuels would change when ethanol use changes. CBO estimates that increased ethanol use would reduce revenues starting in 2007, and continue affecting revenues through part of 2011. Although ethanol use would increase significantly under the bill, the special tax treatment of ethanol fuels under current law will expire at the end of calendar year 2010. Therefore, changes in ethanol use would not significantly affect federal revenues after that time.

Energy Savings Performance Contracts (ESPCs). The bill would provide authorization for the use of energy savings performance contracts through 2016. Under current law, the authority to enter into such contracts expires at the end of fiscal year 2006. Overall, CBO estimates that entering into ESPCs would increase direct spending by $256 million in 2007 and $2.9 billion over the 2005–2015 period.

ESPCs enable federal agencies to enter into long-term contracts with an energy savings company (ESCO) for the acquisition of energy-efficient equipment, such as new windows, lighting, and heating, ventilation, and air-conditioning systems. Using such equipment can reduce the energy costs for a facility, and the savings from reduced utility payments can be used to pay the contractor for the equipment over time. Because the government does not pay for the equipment at the time it is acquired, the ESCO borrows money from a nonfederal lender to finance the acquisition and installation ofthe equipment. When it signs the ESPC, the government commits to paying for the full cost of the equipment as well as the interest costs on the ESCO's borrowing for the project. Since the ESCO faces higher borrowing costs than the U.S. Treasury, total interest payments for the equipment acquisition will be higher than if the government financed the acquisition of the equipment directly with appropriated funds.

The obligation to make payments for the equipment and the financing costs is incurred when the government signs the ESPC. Under current law, agencies can use ESPCs to acquire new energy-efficient equipment, paying over a period of up to 25 years without an appropriation for the full amount of the purchase price. Thus, consistent with government accounting principles, CBO believes that the budget should reflect that commitment as new obligations at the time that an ESPC is signed and that the authority to enter into these contracts without budget authority for the full amount of the purchase price constitutes direct spending.

CBO's estimate of direct spending reflects an amount equal to the cost of the energy conservation measures as installed, plus the portion of borrowing costs attributable to contract interest rates that exceed U.S. Treasury interest rates. (Borrowing costs equivalent to the amount of Treasury interest that would be paid if the equipment were financed with appropriated funds are not counted against this authority, consistent with the budget scorekeeping of regular interest costs associated with federal spending; that is, Treasury interest effects are not counted as a direct cost or savings to any particular legislative provision.)

Since 1988, the Department of Energy estimates that agencies have entered into ESPCs valued over $800 million, $252 million of that in 2003 alone. CBO estimates that, because the federal building inventory is aging, those contracts would continue to be used—over time at roughly the same rate as currently used—about $300 million in 2007 and increasing with anticipated inflation in each of the following years. Thus, we estimate that extending the authorization for ESPCs would increase direct spending by $2.9 billion over the 2007–2015 period.

Electric Reliability Organization. The bill would authorize the Federal Energy Regulatory Commission (FERC) to exercise authority over the reliability of the nation's electricity transmission system through the establishment of an Electric Reliability Organization (ERO). Under the bill, FERC would select an organization to become the ERO based on several criteria, including the ability of the organization to charge fees to end users of the electricity system to cover its costs. CBO believes the ERO's collections and spending should be included in the federal budget because this new entity would conduct inherently governmental activities that could not be undertaken by a purely private organization. FERC would approve and enforce the collection of fees charged by the ERO.

Based on information from the North American Electric Reliability Council (NERC), CBO estimates that the newly formed ERO and its regional affiliates would spend between $75 million and $150 million a year. For this estimate, CBO assumes that spending by the ERO and its regional affiliates would start at $100 million a year and increase by the rate of anticipated inflation. Thus, we estimate that spending by the ERO would total about $100 million in 2006 and $1.1 billion over the next 10 years.

Because the ERO and the regional organizations created by it would be governmental in nature, CBO believes that the collection of these fees should be recorded as revenues in the budget. Based on information from NERC, CBO estimates that net revenues collected by an ERO and its regional organizations would total $75 million in 2006, $391 million over the 2006–2010 period, and $820 million over the 2006–2015 period.

Currently, the federal power marketing administrations, including the Tennessee Valley Authority and the Bonneville Power Administration, pay dues to the regional affiliates of NERC. We would expect that those payments would continue and would increase under the new regulatory scheme established by the ERO. Any increase in those fees would be offset by changes in the rates charged to customers of the federal agencies.

Financing of Federal Electricity Transmission Projects. The bill would authorize DOE's Western Area and Southwestern Power Administrations to accept from private entities up to $100 million to assist in the design, development, construction, and operation of transmission projects that would contribute to reducing congestion on existing electricity lines. Such financing would be equivalent to incurring new federal debt, and the spending of such borrowed amounts should be recorded in the budget as direct spending. We estimate that such spending would cost $10 million in 2007 and $100 million over the 2007–2015 period.

Federal Oil and Natural Gas Programs. Title III would make several changes to federal programs related to the production of oil and natural gas. Several ofthese provisions would provide private producers of those resources with various forms of royalty relief or other credits that would reduce federal receipts, particularly over the next few years. By creating incentives for greater production of oil and natural gas, CBO expects that net receipts from royalties would eventually increase under some of those provisions, but not for several years. Based on information from DOl, CBO estimates that these provisions would result in a net loss of offsetting receipts (a credit against direct spending) totaling $8 million in 2006 and $87 million over the next 10 years.

Assistance for Rural Communities with High Energy Costs. Section 210 of the bill would require the Rural Utilities Service (RUS) to change the loan terms offered to eligible electric cooperatives in Alaska that currently have loans provided by that agency. The bill would require that the term of loans be changed to reduce the electricity rates charged to customers. Under the Federal Credit Reform Act, the cost of a loan modification is the change in the subsidy cost of the loan (on a present value basis) because of the modified loan terms. CBO estimates that the cost of this provision would be $46 million and would be recorded in 2005, the assumed year of enactment.

Based on information from RUS, CBO estimates that six utilities would be eligible for the assistance authorized by the bill. The bill would require that the agency provide

such assistance through deferrals, extensions, or reductions of loans. Currently, the six eligible borrowers have a total outstanding principal of $57 million, at an average interest rate of about 3.5 percent. It is possible that the agency could decide to provide zero-interest loans, or lengthen the term of loans, thereby reducing payments owed to the government. The legislation would authorize the agency to forgive the full amount of the outstanding principal without recourse to the borrowers. CBO assumes that the cooperatives in the highest distress areas would apply for loan forgiveness and the remaining cooperatives would apply to receive zero-interest loans. CBO estimates that the net present value for all payments that would have been provided under current law results in a cost to the government of $46 million, which would be recorded in 2005, the assumed year of enactment.

Civil Penalties. The bill also could affect governmental receipts and direct spending by establishing and increasing certain civil and criminal penalties. CBO estimates that any resulting increase in receipts and spending would be less than $500,000 annually. Such penalties would be established for violations of regulations relating to: Violations of the Price-Anderson Act, Nuclear safety at nonprofit institutions, willful destruction of a nuclear facility, the reliability of the nation's electricity system, market trading of electricity, and the sale of renewable fuels.

Section 385 would raise the maximum civil and criminal penalty amounts imposed for violations of the Natural Gas Act (NGA) and the Natural Gas Policy Act of 1978. Currently the maximum amount FERC may assess varies depending on the violation, however, most fall between $500 and $25,000 per violation. The bill would increase those amounts to as much as $1 million for violations of the NGA. Based on information from FERC, CBO expects that the penalty increases and the additional civil penalty authority would serve as a significant deterrent so that firms would very likely comply with the regulations, resulting in no significant effect on revenues.

Intergovernmental and private-sector impact: The bill contains numerous mandates as defined in UMRA that would affect both intergovernmental and private-sector entities.

CBO cannot determine the cost of all the mandates in the bill because several of the requirements established by the bill would hinge on future regulatory action about which information is not available. Though CBO cannot estimate the cost of each mandate, we expect that the total cost of private-sector mandates in the bill would exceed the annual threshold established in UMRA ($123 million in 2005, adjusted annually for inflation). That conclusion is based on our analysis of the renewable fuels standard, which would impose II substantial costs on the motor fuels industry.

CBO estimates, however, that the total cost of complying with intergovernmental mandates in the bill would not exceed the threshold established in UMRA ($62 million in 2005, adjusted annually for inflation). The bill also would authorize numerous grants and initiatives that would benefit state, local, and tribal governments; any costs those governments incur for these projects and initiatives would result from complying with conditions for receiving this federal assistance.

Based on its review of the bill, CBO expects that the mandates contained in the bill's titles lion renewable energy (title II), nuclear energy (title VI), electricity (title XII), and energy efficiency (title I) would have the greatest impact on private-sector entities and state and local governments.

Renewable Energy (Title II)—Renewable Fuels Standard

Section 204 would impose a private-sector mandate on domestic refiners, blenders, and importers of gasoline by requiring that gasoline sold or dispensed to consumers in the contiguous United States contains a minimum volume of renewable fuels. The bill also II would establish a credit trading program for renewable fuels to allow producers who use more ethanol than would be required to sell credits to producers who would be in deficit. Those credits could only be used in the same year they are generated. The required volume of renewable fuel would start at 4.0 billion gallons in 2006 and increase to 8.0 billion gallons by 2012. CBO expects that the renewable fuels requirement would be met in 2006 without additional costs to the industry. The industry would begin to experience additional costs in 2007 as it begins to blend or purchase greater amounts of gasoline containing renewable fuels than it would in the absence of a standard. Based on Department of Energy estimates of the price impacts of similar renewable fuels standards on gasoline prices, CBO estimates that the direct costs of the renewable fuel requirement on private-sector entities would exceed UMRA's annual threshold for private-sector mandates.

Nuclear Matters (Title VI)—Increase in the Annual Premium

Under current law, in the event that losses from a nuclear incident exceed the required amount of private insurance, Nuclear Regulatory Commission licensees (both public and private) are assessed a charge to cover the shortfall in damage coverage. Section 603 would increase the maximum annual premium from $10 million to $15 million. CBO has determined that raising the maximum annual premium would increase the costs of existing mandates and would thereby impose both intergovernmental and private-sector mandates under UMRA. Because the probability of a nuclear accident resulting in losses exceeding the amount of private insurance coverage is low, CBO estimates that the annual costs for public and private entities of complying with the mandates (in expected value terms) would not be substantial over the next five years.

Electricity (Title XII)

Mandatory Reliability Standards. Section 1211 would require users of the bulk-power system to comply with standards issued by a newly established Electric Reliability Organization designated by the Federal Energy Regulatory Commission. Those users include intergovernmental entities such as municipally owned utilities as well as private-sector entities, including utilities, nonutility generators, and marketers. Currently, the North American Electric Reliability Council (NERC), a voluntary organization, promotes electricity reliability. According to several industry experts, almost all public and private-sector users of the bulk power system voluntarily comply with standards issued by NERC. The mandate would impose no significant additional costs in the short term relative to current practice since the ERO is not expected to significantly change current standards. In the future, market conditions may prompt the ERO to impose stricter standards to maintain reliability. In that case, costs for users of the bulk power system-that could otherwise elect to disregard NERC standards under current law—could increase substantially.

Mandatory Assessments. Section 1211 would direct the ERO to assess fees and dues to cover the costs of implementing and enforcing ERO standards. Although there is some uncertainty as to how those fees would be assessed, the most likely scenario is that the ERO would assess fees on its members, which is the current practice of NERC. As NERC members include both public and private entities, such fees would constitute intergovernmental and private-sector mandates as defined in UMRA.

CBO estimates that the increment in fee collections for the proposed compliance, monitoring, ''and enforcement activities under the bill would be about $50 million annually. Based on industry data, CBO assumes that roughly 80 percent to 85 percent of the collections would be borne by the private sector and another 10 percent to 14 percent would be borne by state and local government entities. The remainder would be paid by federally owned entities.

Regulatory Fees. The bill would require FERC to assume certain regulatory procedures that are currently under the jurisdiction of the Securities and Exchange Commission. In addition, the bill would require FERC to establish new rules for managing the nation's electricity system and governing the business practices of the electricity industry. Under current law, FERC has the authority to collect fees from investor-owned utility companies to offset its costs. The duty to pay those fee increases would impose a private-sector mandate on those entities. Based on information from FERC, CBO expects that investor-owned utilities would have to pay $11 million in 2006 and $47 million over the 2006–2010 period.

State Authority Over Electric Utilities. Section 1221 would preempt state authority to take action to ensure the safety, adequacy, and reliability of electric service within that state if the state's actions are inconsistent with the federal reliability standards. This preemption of state authority would impose no additional costs on state governments.

Sections 1251, 1252, and 1254 would require state regulators to review the use of net metering, time-based metering, demand-response systems, and interconnection services before permitting electric utilities to implement these federal standards. These sections contain intergovernmental mandates because they would increase a state's responsibilities under the existing mandates in the Public Utilities Regulatory Policies Act. However, CBO estimates that the states' costs to review additional standards would not be significant.

Jurisdiction over the Termination Payments of Certain Contracts. Section 1270 would grant the Federal Energy Regulatory Commission exclusive jurisdiction to determine whether the requirement to pay termination payments under certain contracts entered into between sellers and buyers of wholesale electricity was unjust and unreasonable. These contracts are currently before the Bankruptcy Court in the Southern District of New York. FERC has asserted jurisdiction over termination payments under wholesale power contracts for periods a seller was found to be in violation of Commission orders. While legislative provisions that would severely limit or extinguish a person's rights in court have been considered to be mandates under UMRA, CBO cannot determine if the language in this provision would extinguish the sellers' rights before the Bankruptcy Court or would simply make clear FERC's jurisdiction over the termination payments.

Energy Efficiency (Title I)

Energy Conservation. Section 135 would direct the Secretary of Energy to prescribe energy conservation standards restricting ''standby-mode'' energy consumption of household and commercial appliances. According to industry sources and DOE, up to

9,000 types of household and commercial appliances could be affected by this provision, and further, many such products may require significant modification to meet the standard for energy consumption in standby mode. DOE has not yet determined how it would implement this provision. Therefore, we cannot estimate the incremental cost to the industry of meeting such requirements.

If DOE applies standards to the majority of products potentially affected, costs to industry could be substantial. The magnitude of the costs also depends on the stringency of new standards that would affect the appliance manufacturers. For example, the bill would require DOE to apply new energy conservation standards to certain furnaces. Roughly three million oil, gas, and electric furnaces would have to comply with the new standards. According to a DOE report, the incremental costs to manufacturers of improving energy efficiency could range from $5 to $175 per unit, depending on the level of the standard that must be met. If DOE applies relatively high efficiency standards to the appliances covered under the bill, the incremental costs to the industry could be large, and thus could exceed UMRA's threshold for private-sector mandates.

In prescribing the energy conservation standards required under sections 135 and 136 for household appliances and consumer products, the Secretary would preempt state and local energy efficiency standards currently in place for those products and appliances. CBO estimates that no costs would result from this preemption.

Testing Requirements. Section 135 would direct the Secretary of Energy to prescribe energy efficiency testing requirements for appliances specified in the bill and future appliances to be determined by the Secretary. The provision would require manufacturers of those appliances to have their appliances tested to determine energy efficiency ratings. The testing and rating would be conducted by the DOE. CBO estimates that the cost to comply with the mandate to have appliances tested would not be large.

Ban of Mercury Vapor Lamp Ballasts. Section 135 would prohibit the manufacturing and importing of mercury vapor lamp ballasts after January 1, 2008. A ballast is an electrical device for starting and regulating fluorescent and certain other lamps. The mercury vapor lamp ballast has been decreasing in its share of the market for ballasts during the last 20 years. Moreover, according to industry contacts, few, if any mercury vapor lamp ballasts are imported into the United States. The majority of such ballasts are manufactured in the United States for domestic use. According to industry sources, mercury vapor lamp ballasts are now only manufactured for rural street lights and residential floodlights. Based on information provided by industry and government sources, the value of annual shipments of such ballasts amounts to about $15 million. The cost of the mandate, measured in lost net income to the industry, would be less than that amount.

Energy Efficiency Resources Program. Section 141 would require ratemaking authorities for gas and electric utilities (including states, local municipalities, or co-ops) to either demonstrate that an energy efficiency resource program is in effect or to hold a public hearing regarding the benefits and feasibility of implementing an energy efficiency resources program for electric and gas utilities. CBO estimates no significant costs would result from this requirement.

Previous CBO estimates

Federal budget effects

On April 19, 2005, CBO transmitted a cost estimate for H.R. 1640, the Energy Policy Act of 2005, as ordered reported by the House Committee on Energy and Commerce on April 13, 2005. Like this legislation, H.R. 1640 would authorize appropriations for a wide array of energy-related activities. Differences between the estimates of spending subject to appropriation under this bill and H.R. 1640 reflect differences in authorization levels, particularly for the Low-Income Home Energy Assistance Program and activities related to science and coastal impact assistance.

Like H.R. 1640, this legislation would authorize FERC to establish an ERO to oversee the nation's electricity transmission system. Both bills would authorize the new organization to collect and spend fees (which would be classified as revenues). However, H.R. 1640 would cap those fees at $50 million a year. This legislation contains no such cap; therefore, our estimates of direct spending and revenues related to the proposed ERO are higher than under H.R. 1640.

CBO previously completed two cost estimates for bills that would permanently authorize the use of ESPCs: H.R. 1640 and H.R. 1533, the Federal Energy Management Improvement Act of 2005. CBO transmitted a cost estimate for H.R. 1533, as ordered reported by the House Committee on Government Reform, on April 13, 2005. Provisions of this legislation and H.R. 1533 related to ESPCs are similar; however, H.R. 1640 would cap total payments under ESPCs at $500 million a year. Therefore, our estimate of spending for ESPCs is lower under H.R. 1640 than under this bill or H.R. 1533. Also, this bill would authorize the use of ESPCs through 2016.

Finally, on May 23, 2005, CBO transmitted a cost estimate for S. 606, the Reliable Fuels Act, as ordered reported by the Senate Committee on Environment and Public Works on March 16, 2005. Like this legislation, S. 606 would require that motor fuels sold by a refiner, blender, or importer contain specified amounts of renewable fuel but with two key differences. First, the required level of renewable fuels under this bill would be higher than under S. 606. Second, S. 606 would allow producers of motor fuels to accumulate ethanol-use credits for exceeding the ethanol target in any year. Under S. 606, such credits could be used in subsequent years to meet the ethanol target. In contrast, this legislation contains no such provision for use of credits over multiple years. As a result, CBO expects that demand for corn-based ethanol under this bill would increase more than under S. 606, leading to higher demand for corn and, subsequently, a larger decrease in federal spending to support farm prices and provide income to farmers.

Mandates

The bill includes many of the same state and local mandates as in H.R. 6, the Energy Policy Act of 2005, as approved by the House Committee on Resources on April 20, 2005. However, the estimate of state and local mandates in this bill is not identical to the statement included in CBO's cost estimate for that earlier legislation. Section 1502 of H.R. 6 is not included in this bill. That provision would shield manufacturers of motor fuels and other persons from liability for claims based on defective product relating to motor vehicle fuel containing methyl tertiary butyl ether or renewable fuel. That provision in H.R. 6 would impose an intergovernmental mandate as it would limit existing rights to seek compensation under current law.

The state and local mandates in this bill that are the same as the mandates in H.R. 6 include the increase in the retrospective premiums, the mandatory reliability standards and assessments, the state authority over electric utilities, and the energy conservation provision. In contrast, section 141 of the legislation was not included in H.R. 6. That provision would require ratemaking authorities for gas and electric utilities (including states, local municipalities, or co-ops) to either demonstrate that an energy efficiency resource program is in effect or to hold a public hearing regarding the benefits and feasibility of implementing an energy efficiency resources program for regulated and nonregulated electric and gas utilities. CBO estimates that no significant costs would result from this requirement.

Regarding private-sector mandates, most of the mandates contained in the bill were also contained in the legislation considered in the House. H.R. 6 and H.R. 1640 contain a mandate establishing a renewable fuel standard for motor fuels, which would impose costs on refiners, importers, and blenders of gasoline similar to the one in the Renewable Fuels title of this bill. However, the renewable fuels standard in the House bills would require the industry to use a lower yearly level of renewable fuels than the standard contained in this bill. In the case of the House bills, CBO found that the motor fuels industry would be able to meet the renewable fuels requirement in the first five years that the mandate is in effect without significant additional costs to the industry. The House bills also contain a mandate that would extend the existing requirement for licensees to pay fees to offset roughly 90 percent of the Nuclear Regulatory Commission's annual appropriation. That provision is not included in the bill.

Estimate prepared by: Federal Costs: Energy Savings Performance Contracts: Lisa Cash Driskill and David Newman; Oil and Natural Gas Resources: Lisa Cash Driskill and Megan Carroll; Indian Energy Programs: Mike waters; EPA Provisions and Loan Guarantee for Ethanol Production: Susanne Mehlman; Renewable Fuels Requirement and Agriculture Support Programs: David Hull; All Other Federal Costs: Lisa Cash Driskill; revenues: Annabelle Bartsch and Laura Hanlon; impact on state, local, and tribal governments: Lisa Ramirez-Branum; impact on the private sector: Craig Cammarata, Jean Talarico, Selena Caldera and Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward Assistant Director for Tax Analysis.

JUNE 9, 2005.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Energy Policy Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Cash Driskill.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

OIL SPILL LIABILITY TRUST FUND MAINTENANCE ACT

Mr. INOUYE. Mr. President, I am very pleased to cosponsor this legislation, the ''Oil Spill Liability Trust Fund Maintenance Act'', with my friend and Commerce Committee Chairman, TED STEVENS, as well as my other Senate colleagues. As most people know, after the terrible incident involving the *Exxon Valdez*, Senator STEVENS championed the passage of the Oil

Pollution Act of 1990, OPA 90, as well as the mechanism for providing funding for the cleanup of oil spills.

That mechanism, known as the Oil Spill Liability Trust Fund, is now in danger. In a recent report to Congress, the United States Coast Guard predicted that the Fund will run out of money before 2009. Given the recent spate of costly spills around the country, it may run out sooner. We simply cannot allow this to happen. The fund provides a critically important safety net. It aids the cleanup of oil spills and provides compensation to those harmed, particularly where no responsible party is identified or the responsible parties have insufficient resources.

Since the passage of OPA 90, we have significantly reduced the number and volume of oil spills in the U.S. Unfortunately, thousands of gallons of oil continue to be spilled into our waters every year, and the cost of cleanup has increased substantially. The amount of oil carried by tank vessels to and within the U.S. is predicted to increase. While we pray that we will never have another major oil spill, we must be ready to respond if necessary.

The bill introduced today would reinstate an expired fee on oil companies of 5 cents per barrel of oil. The fee, which ceased January 1, 1995, would increase the maximum principal amount of the fund from $1 billion to $3 billion, and if the fund drops below $2 billion, the fee would automatically be reinstated without the need for additional legislative action. Five cents a barrel translates to approximately $0.0011 per gallon of gas—or one eighth of one cent—and is worth about 3 cents per barrel in 1990 dollars. This is substantially less than the original rate of 5 cents.

I urge my Senate colleagues to take up this issue and pass this legislation without delay.

TAIWAN AND CHINA

Mr. CRAIG. Mr. President, in recent weeks Lien Chan of Taiwan undertook the task of meeting with key leaders in the People's Republic of China. This was no small task as the gulf between the two sides is much wider than the Strait of Formosa.

The substantive accomplishments of Chairman Lien's recent mission to mainland China surely put to rest any accusations that the event was little more than a symbolic gesture. In fact, the practical results should have a very positive impact on cross-strait trade, tourism, and culture if momentum can be maintained.

First and foremost, an essential mechanism of dialogue has been established, overcoming obstacles of politics and history. The precedent has been set. Further talks between mainland China and Taiwan should follow as a matter of course, to address a range of issues of mutual concern, provided there is enough goodwill on both sides. However, I think it is important to note that these meetings did not include elected officials of the Government of Taiwan. Although these initial talks were an important step, it is essential that future talks between Taiwan and China include the rightly elected leaders of Taiwan for there to be any real substance and hope for change.

Second, it seems that certain basic principles have been addressed that should help Taipei and Beijing re-open negotiations on an equal footing, even though they still disagree on the meaning of ''one China'' and what Taiwan's international status is. The basic concept of ending hostility and promoting cooperation has been embraced. Both sides believe it is a mistake to let small details create a deadlock forever, and that is a key principle for progress.

Third, even people who insist that all talk is meaningless unless it leads to policy changes should be able to admit that eliminating and/or reducing trade barriers on farm products, like fruit, is a concrete achievement. Both sides gain from such actions, and it sets a good example for further progress later on down the road.

Fourth, it is to be commended by any free society when a tightly controlled country like mainland China agrees to negotiate to allow its people to tour a democracy like Taiwan. Who knows what the long-term implications may be, when those who know few liberties are one day allowed to visit and see for themselves what real freedom feels and looks like.

Finally, even the most humorless critics surely must admit that ''panda bear diplomacy'' still trumps political stalemate and hostility. Critics can call it symbolism, but even symbolism has definite practical value when it lifts spirits and relaxes tensions.

History will record that this mission was blessed with genuine substance as well as great potential in building bridges where none existed before.

PRESS COLUMNS ON JUDICIAL NOMINATIONS

Mr. KYL. Mr. President, a column published recently by Lino A. Graglia in the Wall Street Journal, and another by Charles Krauthammer in the Washington Post, frame particularly well the debate we are having in the Senate on judicial nominations. I ask unanimous consent that these columns be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 24, 2005]

OUR CONSTITUTION FACES DEATH BY DUE ''PROCESS''

(By Lino A. Graglia)

The battles in Congress over the appointment of even lower court federal judges reveal a recognition that federal judges are now, to a large extent, our real lawmakers. Proposals to amend the Constitution to remove lifetime tenure for Supreme Court justices, or to require that rulings of unconstitutionality be by more than a majority (5–4) vote, do not address the source of the problem. The Constitution is very difficult to amend—probably the most difficult of any supposedly democratic government. If opponents of rule by judges secure the political power to obtain an amendment, it should be one that addresses the problem at its source, which is that contemporary constitutional law has very little to do with the Constitution.

Judge-made constitutional law is the product of judicial review—the power of judges to disallow policy choices made by other officials of government, supposedly on the ground that they are prohibited by the Constitution. Thomas Jefferson warned that judges, always eager to expand their own jurisdiction, would ''twist and shape'' the Constitution ''as an artist shapes a ball of wax.'' This is exactly what has happened.

The Constitution is a very short document, easily printed on a dozen pages. The Framers wisely meant to preclude very few policy choices that legislators, at least as committed to American principles of government as judges, would have occasion to make.

The essential irrelevance of the Constitution to contemporary constitutional law should be clear enough from the fact that the great majority of Supreme Court rulings of unconstitutionality involve state, not federal, law; and nearly all of them purport to be based on a single constitutional provision, the 14th Amendment—in fact, on only four words in one sentence of the Amendment, ''due process'' and ''equal protection.'' The 14th Amendment has to a large extent become a second constitution, replacing the original.

It does not require jurisprudential sophistication to realize that the justices do not decide controversial issues of social policy by studying those four words. No question of interpretation is involved in any of the Court's controversial constitutional rulings, because there is nothing to interpret. The states did not lose the power to regulate abortion in 1973 in Roe v. Wade because Justice Harry Blackmun discovered in the due process clause of the 14th Amendment, adopted in 1868, the purported basis of the decision, something no one noticed before. The problem is that the Supreme Court justices have made the due process and equal protection clauses empty vessels into which they can pour any meaning. This converts the clauses into simple transferences of policy-making power from elected legislators to the justices, authorizing a Court majority to remove any policy issue from the ordinary political process and assign it to themselves for decision. This fundamentally changes the system of government created by the Constitution

The basic principles of the Constitution are representative democracy, federalism and the separation of powers, which places all lawmaking power in an elected legislature with the judiciary merely applying the law to individual cases. Undemocratic and centralized lawmaking by the judiciary is the antithesis of the constitutional system.

The only justification for permitting judges to invalidate a policy choice made in the ordinary political process is that the choice is clearly prohibited by the Constitution—''clearly,'' because in a democracy the judgment of elected legislators should prevail in cases of doubt. Judicially enforced constitutionalism raises the issue, as Jefferson also pointed out, of rule of the living by the dead. But our problem is not constitutionalism but judicial activism—the invalidation by judges of policy choices not clearly (and rarely even arguably) prohibited by the Constitution. We are being ruled not by the dead but by judges all too much alive.

Because most of the Supreme Court's activist rulings of unconstitutionality purport to be based on a 14th Amendment that it has deprived of specific meaning, the problem can be very largely solved by simply restoring the 14th Amendment to its original meaning, or by giving it any specific meaning. The 14th Amendment was written after the Civil War to provide a national guarantee of basic civil rights to blacks. If a constitutional amendment could be adopted reconfining the 14th Amendment to that purpose or, better still, expanding it to a general prohibition of all official racial discrimination, the Court's free-hand remaking of domestic social policy for the nation would largely come to an end. If the justices lost the ability to invalidate state law on the basis of their political preferences, their ability and willingness to invalidate federal law on this basis would likely also diminish.

Plato argued for government by philosopher-kings, but who could argue for a system of government by lawyer-kings? No one can argue openly that leaving the final decision on issues of basic social policy to majority vote of nine lawyers—unelected and lifetenured, making policy decisions for the nation as a whole from Washington, D.C.—is an improvement on the democratic federalist system created by the Constitution. Yet that is the form of government we now have.

The claim that the Court's rulings of unconstitutionality are mandates of the Constitution, or anything more than policy preferences of a majority of the justices, is false. Rule by judges is in violation, not enforcement, of the Constitution. Ending it requires nothing more complex than insistence that the Court's rulings of unconstitutionality should be based on the Constitution—which assigns ''All legislative Power'' to Congress—in fact as well as name.

[From the Washington Post, June 10, 2005]

FROM THOMAS, ORIGINAL VIEWS

(By Charles Krauthammer)

Justice Thomas: ''Dope is cool.''

Justice Scalia: ''Let the cancer patients suffer.''

If the headline writers characterized Supreme Court decisions the way many senators and most activists and lobbying groups do, that is how they would have characterized the Supreme Court decision this week on the use of medical marijuana in California. It was ruled illegal because the federal law prohibiting it supersedes the state law permitting it. Scalia agreed with the decision. Thomas dissented.

In our current, corrupted debates about the judges, you hear only about results. Priscilla Owen, we were told (by the Alliance for Justice), ''routinely backs corporations against worker and consumer protections.'' Well, in what circumstances? In adjudicating what claims? Under what constitutional doctrine?

The real question is never what judges decide but how they decide it. The Scalia-Thomas argument was not about concern for cancer patients, the utility of medical marijuana or the latitude individuals should have regarding what they ingest.

It was about what the Constitution's commerce clause permits and, even more abstractly, who decides what the commerce clause permits. To simplify only slightly, Antonin Scalia says: Supreme Court precedent. Clarence Thomas says: the Founders, as best we can interpret their original intent.

The Scalia opinion (concurring with the majority opinion) appeals to dozens of precedents over the past 70 years under which the commerce clause was vastly expanded to allow the federal government to regulate what had, by the time of the New Deal, become a highly industrialized country with a highly nationalized economy.

Thomas's dissent refuses to bow to such 20th-century innovations. While Scalia's opinion is studded with precedents, Thomas pulls out founding-era dictionaries (plus Madison's notes from the Constitutional Convention, the Federalist Papers and the ratification debates) to understand what the word commerce meant then. And it meant only ''trade or exchange'' (as distinct from manufacture) and not, as we use the term today, economic activity in general. By this understanding, the federal government had no business whatsoever regulating privately and medicinally grown marijuana.

This is constitutional ''originalism'' in pure form. Its attractiveness is that it imposes discipline on the courts. It gives them a clear and empirically verifiable understanding of constitutional text—a finite boundary beyond which even judges with airs must not go.

And if conditions change and parts of the originalist Constitution become obsolete, amend it. Democratically. We have added 17 amendments since the Bill of Rights. Amending is not a job for judges.

The position represented by Scalia's argument in this case is less ''conservative.'' It recognizes that decades of precedent (which might have, at first, taken constitutional liberties) become so ingrained in the life of the country, and so accepted as part of the understanding of the modern Constitution, that it is simply too revolutionary, too legally and societally disruptive, to return to an original understanding long abandoned.

And there is yet another view. With Thomas's originalism at one end of the spectrum and Scalia's originalism tempered by precedent—rolling originalism, as it were—in the middle, there is a third notion, championed most explicitly by Justice Stephen Breyer, that the Constitution is a living document and that the role of the court is to interpret and reinterpret it continually in the light of new ideas and new norms.

This is what our debate about judges should be about. Instead, it constantly degenerates into arguments about results.

Two years ago, Thomas (and Scalia and William Rehnquist) dissented from the court's decision to invalidate a Texas law that criminalized sodomy. Thomas explicitly wrote, ''If I were a member of the Texas Legislature, I would vote to repeal it.'' However, since he is a judge and not a legislator, he could find no principled way to use a Constitution that is silent on this issue to strike down the law. No matter. If Thomas were nominated tomorrow for chief justice you can be sure that some liberal activists would immediately issue a news release citing Thomas's ''hostility to homosexual rights.''

And they will undoubtedly cite previous commerce clause cases—Thomas joining the majority of the court in striking down the Gun Free School Zones Act and parts of the Violence Against Women Act—to show Thomas's ''hostility to women's rights and gun-free schools.''

I hope President Bush nominates Thomas to succeed Rehnquist as chief justice, not just because honoring an originalist would be an important counterweight to the irresistible modern impulse to legislate from the bench but, perhaps more importantly, to expose the idiocy of the attacks on Thomas that will inevitably be results-oriented: hostile toward women, opposed to gun-free schools . . . and pro-marijuana?

VETERANS HEALTHCARE AND EQUITABLE ACCESS ACT OF 2005

Mr. THUNE. Mr. President, today I rise to speak on a matter of great importance, the state of care received by America's veterans. On April 28. I proudly introduced the Veterans' Healthcare and Equitable Access Act of 2005, which will honor America's veterans with the dignity and respect they have earned. This legislation was inspired by my work on the Senate Committee on Veterans' Affairs. I have had the privilege to come face to face with real heroes, like injured veterans returning from the battlefield and grieving survivors who proudly and bravely carry the memory of a fallen soldier with them as they struggle to move on. I have been moved by this experience and I offered this bill to honor their sacrifice and their struggles.

The Veterans' Healthcare and Equitable Access Act of 2005 takes a comprehensive approach to fix some of the major problems facing veterans today. Since I was a member of the House of Representatives, I have supported mandatory funding, and the legislation I have introduced underscores that commitment. The widening gap between demand for care and funding is a problem that must be faced head on and dealt with before it spirals out of control. The Veterans' Healthcare Eligibility Act and the Veterans' Millennium Healthcare Care and Benefits Act changed the nature of the VA, but did not change the manner in which the VA was funded. That is why I support mandatory funding for veterans' healthcare, so the VA can finally provide care to those who cared for us.

This bill will also end another problem that has plagued veterans in my home state for years: access to quality healthcare and equitable reimbursement for travel expenses. My legislation will allow rural veterans who are enrolled in the VA to obtain health care at local medical facilities closer to home or to travel to a VA facility and recelve travel reimbursements at the same rate as Federal employees.

The veterans population is aging and we are losing great men and women every day. Today, the GI's who fought in Vietnam are reaching the age of retirement and Medicare eligibility. It is therefore unfair to ask the VA to shoulder a cost that Medicare should help pay for. Aging veterans are seeking care at the VA because it is one of the best care providers in the country. As I see it, the VA and Medicare need to share this cost in order to provide excellent care to those who need it most.

In March, I met Major Tammy Duckworth, an Army pilot who lost both of her legs after a rocket propelled grenade hit the Black Hawk helicopter she was in while flying in the skies above Iraq. Although now a double amputee, she is determined to both walk and fly helicopters again. Major Duckworth has my full support, but needless to say her life has been changed forever. That is why the legislation I introduced would require that a service member who has lost a limb from a service-connected injury receive

a disability rating of not less than 50 percent. This is our way of saying thank you and helping our veterans achieve their dreams.

Some of the hardest hit victims of this war are not soldiers or veterans, but survivors of the fallen. These brave men and women need our help. This year I voted to extend survivor benefits from $12,000 to $100,000 and to extend military housing privileges from 6 months to 1 year. To complete our support for survivors, my bill will extend childcare privileges for survivors from 6 months to 2 years in any Federal childcare program, giving surviving family members the help they need to grieve, heal, and move on from a painful loss.

Mr. President, legislation such as this is not without costs and it will require the Senate to make difficult choices. Sending troops into harm's way is a difficult choice, even when that choice is clearly justifiable, like it is in Iraq and Afghanistan. But taking care of veterans and their families is not a difficult choice, it is one we must embrace. As General Omar Bradley once said: ''We are dealing with veterans, not procedure—with their problems, not ours.''

Scripture tells us there is a time for everything, a time for peace and a time for war. America is facing a time of war, and we are fighting an evil and determined enemy. We have to ensure that the men and women who are bearing the burden of this war are cared for and are confident they can count on their government in their hour of need.

I ask unanimous consent that this statement be entered into the RECORD as if read.

ADDITIONAL STATEMENTS

TRIBUTE TO THE NORTHERN KENTUCKY UNIVERSITY WOMEN'S SOFTBALL TEAM

● Mr. BUNNING. Mr. President, I pay tribute in the Senate to the Northern Kentucky University Women's Softball Team for their remarkable season and recent participation in the NCAA Division II World Series.

The NKU was the No. 1 ranked team in the country and were the NCAA Division II Great Lakes Regional Champs. The team finished the most successful season in school history with a 55–2 record. The 55 game winning streak is the longest in collegiate softball history.

The Commonwealth of Kentucky should be very proud of this team. Their example of hard work and determination should be followed by all in the Commonwealth. I want my colleagues in the Senate to know of the pride that I have in representing these athletes and their families: Sarah Newland, Jamie Patton, Becky Napier, Krystal Lewallen, Kara Lorenz, Ricki Rothbauer, Heather Cotner, Stephanie Leimbach, Michelle Logan, Angie Lindeman, Emily Breitholle, Jeni Schamp, Sarah King, Megan Owens, Rachele Vogelpohl, and Sara Becker.

Congratulations to the members of the team for their success. I also want to congratulate their coach, Kathy Stewart, along with their peers, faculty, administrators, and parents for their support and sacrifices they've made to help the NKU meet their dreams and achieve their goals.●

HONORING THE TOWN OF KENNEBEC, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I wish today to honor and publicly recognize the 100th anniversary of the founding of the town of Kennebec, SD. Kennebec has a strong sense of past and anticipates a bright future.

Since 1924, Kennebec has been the county seat for Lyman County, located in central South Dakota. Few people lived in the area prior to the town's establishment in 1905, as it was challenging to import the supplies necessary to sustain a substantial population. In 1905, however, railroad tracks were laid through the area, thus making it significantly easier for residents to build homes and other structures, since materials no longer needed to be hauled in from surrounding towns and cities. The railroad and influx of people mark the birth of Kennebec. By 1907, Kennebec was a bustling prairie town full of diverse and eager residents.

As years passed and the town flourished, a number of businesses opened, such as the hardware store operated by Albert Williamson. In addition to running the hardware store, Williamson also edited and printed the county newspaper known as the Prairie Sun. Also around this time, Sam Abdnor built and operated a store that survives to this day as the Kennebec movie theatre. Many of my colleagues will recognize the surname ''Abdnor'' and will recall that former U.S. Senator Jim Abdnor hails from Kennebec. He served admirably as Lt. Governor, in the U.S. House of Representatives for 8 years and in this body for an additional 6 years, having never forgotten the community of Kennebec or its people.

In the town's early days, there was only a single doctor in Kennebec, and water had to be hauled by horse-drawn wagons from wells over a mile and a half to the north of the community. All other needs were met by the railroad, which delivered merchandise to the stores and shops, as well as thousands of tons of coal, which was required to heat homes in Kennebec during the long winters. Not only did the railroad allow imports into town, but it also fostered the transport of Kennebec's main exports, which included cattle, sheep and hogs.

Kennebec had no electrical power until 1914, when John Spotts of Armour, SD moved into town. Spotts bought a track of land southeast of Kennebec and built a two-story brick building with a full size basement. The upper floors provided a dance floor and silent movie theater for Kennebec residents, while the basement served as the first electric power plant in the town.

After a hundred years, Kennebec supports a population of over 280 citizens and continues to modernize and improve itself in its role to serve the farmers and ranchers throughout the region. Kennebec's proud citizens celebrate their 100th anniversary on June 18, 2005, and it is with great honor that I share with my colleagues the achievements made by this great community.●

HONORING THE CITY OF RELIANCE, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, it is with great honor that I publicly recognize the 100th anniversary of the founding of the city of Reliance, SD. It is at this time that I would like to draw your attention to and commemorate the achievements and history of this charming city on the western prairie, which stands as an enduring tribute to the moral fortitude and pioneer spirit of the earliest Dakotans.

Located in Lyman County in western South Dakota, the original town-site of Reliance was plotted in the summer of 1905 after officials decided the new railroad's route would not include the already-established towns in the area. As a result, a new town was created on the homestead of Mr. C.C. Herron in order to service the Milwaukee Railroad. This original town-site, located on the southwest quarter of Section 21, encompassed a mere eight blocks. However, several additions were made to this small city between 1905 and 1910 with the help of the Milwaukee Land Company. Today, the town is nearly one square mile in area.

Reliance's early years proved to be incredibly prosperous. The Dirks Mercantile Company, a two-story building used for general store business and public gatherings, was a central part of life in the early years of this small city. An advertisement in the Lyman County Record stated that Dirks Mercantile Company ''would buy anything you wanted to sell and sell anything you wanted to buy.''

Reliance grew rapidly and in less than a decade came to include two saloons, two blacksmith shops, two banks, two lumberyards, a livery barn, three stores, two hardware stores, one creamery, three elevators, one harness shop, one cafe, and two hotels.

Like many small agricultural communities in the area, Reliance experienced a great deal of economic prosperity in the years after World War I. In 1918, the town became the first in Lyman County to provide a 4-year accredited high school.

Today, Reliance is a popular fishing spot thanks to the dam built by the Works Project Administration (WPA) during the 1930s. The dam was heavily stocked with several species of fish and provides sportsmen with the opportunity to enjoy the recreational treasures of South Dakota.

While the small city of Reliance boasted a population of 317 at its peak in 1920, the town has seen small declines in recent years, and is home to 206 residents today. Despite its small size, in the years since its founding, Reliance has proven its ability to thrive and serve farmers and ranchers throughout the region. The proud residents of Reliance will celebrate their vibrant history and the legacy of the pioneer spirit to which our small cities stand as a living shrine with its 100th anniversary on July 25, 2005.●

HONORING THE TOWN OF PRESHO, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, it is a pleasure to honor and publicly recognize the 100th anniversary of the founding of the town of Presho, SD. As the 100th anniversary approaches, Presho looks back on a proud history and looks forward to a promising future.

Named by the town's first Postmaster, Chris Hellekson, Presho is named for the extinct county in which it was originally located, Presho County. Now located in Lyman County, Presho was platted in June of 1905 when the Milwaukee Land Company purchased a plot of land from Sidney F. Hockersmith. On November 9, 1905, the Milwaukee Land Company divided the land into 16 lots and held a public auction. Peter B. Dirks and E.M. Sedgwick purchased the first lot for $500, and within eight minutes of completing the sale, Presho's first bank was moved onto the site, having already completed its initial transaction while en route.

Despite being only .7 square miles in area, Presho drew an enormous population as newcomers took the Milwaukee Railroad as far west as it went. Until 1906, the westernmost point was Presho, SD. Once the railroad was extended farther, however, Presho's population, which totaled 2,000 at its peak, gradually decreased. Currently, about 600 residents live in this flourishing community.

One of the town's most notable historic events was its first Fourth of July celebration and auto race, which took place in 1906. In fact, it is thought that this auto race is the first ever held west of the Missouri River. At least 5,000 people were in attendance.

Mr. President, Presho's proud residents celebrate their community's centennial anniversary on July 4, 2005, and it is with great honor that I share with my colleagues the history of this great community. ●

CAM NEELY'S INDUCTION INTO THE NHL HALL OF FAME

● Mr. KERRY. Mr. President, Cam Neely was recently inducted into the Hockey Hall of Fame. That is the highest honor for a professional athlete, but I believe it is appropriate for us to honor him in the Halls of Congress as well. Cam Neely is a special citizen, one worthy of recognition and emulation.

As a hockey player, Cam Neely was unique. His rare combination of strength, size and skill made him difficult to stop and feared by all opponents. Whether fighting through pain or battles on the boards, Cam Neely's play taught us the meaning of hard work and perseverance. His career may have been cut short by injury, but there is no doubt that Cam Neely was one of the finest players to wear a Boston Bruins uniform, and indeed one of the greatest ''power forwards'' ever to play the game.

Since hanging up his skates, Cam Neely has devoted his life to service. The Cam Neely Foundation has raised over $11 million in the last decade to help cancer patients and their families during treatment. Thousands of New England families have found hope during difficult times due to the generosity and hard work of Cam Neely.

In his first career, Cam Neely brought us all the joy of victory. In his second career, Cam Neely brings joy to families who need it most, while providing a model of service to his countless fans. Cam Neely is an American in whom we can all be proud and who deserves our recognition today for a career that has been hall of fame in every respect. ●

NORTHWESTERN UNIVERSITY WOMEN'S LACROSSE

● Mr. OBAMA. Mr. President, on May 22, 2005, the women's lacrosse team from Northwestern University captured the NCAA Division I championship. This was the first championship for the Wildcats' women's lacrosse team and the first women's lacrosse champion to come from outside of the eastern time zone.

This championship also marks a milestone for Northwestern sports. It is the first ever women's team championship for the university and only the second team championship in school history. The men's fencing team was national champion in 1941.

This talented and dedicated team from the great State of Illinois secured the championship by defeating traditional lacrosse powerhouses, Dartmouth and Princeton. The Wildcats completed their undefeated, 21 win season with a 13–10 victory over defending champion Virginia. Since regaining varsity status in 2002, this outstanding program has taken only four seasons to capture the championship.

Congratulations to Abby Bangser, Donna McCann, Sarah Albrecht, Kristen Kjellman, Sara Crosby, Aly Josephs, Kristen Boege, Ashley Koester, Courtney Koester, Hilary Alley, Ashley Gersuk, Courtney Flynn, Christy Finch, Lindsey Munday, Emily Lovett, Laura Glassanos, Shelby Chlopak, Kaitie Lenahan, Lynda McCandlish, Abby Alley, Sarah Walsh, Lindsay Finocchiaro, Jenny Bush, Fallon McGraw, Quinn Cammarota, Lindsay North, Meredith Philipp, Hannah Whitman, Rebecca Zazove, Annie Elliott, Bailey Su, Kate Darmody, Minnie Doherty, Kim Corcoran, Head Coach Kelly Amonte Hiller, Assistant Coach Alexis Venechanos, Assistant Coach Danielle Shearer, and Assistant Coach Scott Hiller.

Please join me in congratulating the Northwestern women's lacrosse team on its historic championship season.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2545. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA Grant and Cooperative Agreement Handbook—Research Misconduct'' (RIN2700–AD11) received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2546. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary, received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2547. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Budget and Programs, received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2548. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2549. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Budget and Programs, received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2550. A communication from the Acting White House Liaison, Technology Administration, Department of Commerce, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary for Technology, received on June 6, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2551. A communication from the Acting White House Liaison, International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary and Director General, received on June 6, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2552. A communication from the Acting White House Liaison, International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary for International Trade, received on June 6, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2553. A communication from the Acting White House Liaison, Office of the Deputy Secretary, Department of Commerce, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Secretary,

received on June 6, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2554. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations (including 2 regulations): [CGD05–05–051], [CGD05–05–052]'' (RIN1625–AA08) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2555. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Grounds; Anacortes General Anchorage and Cap Sante and Hat Island Tug and Barge General Anchorages, Anacortes, WA'' (RIN1625–AA01) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2556. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (including 3 regulations): [CGD01–05–006], [CGD01–05–034], [CGD01–05–028]'' (RIN1625–AA09) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2557. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area, Security Zoned and Drawbridge Operation Regulations; Port Everglades, FL'' (RIN1625–AA11) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2558. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Portland Rose Festival on Willamette River'' (RIN1625–AA87) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2559. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone (including 2 regulations): [CGD09–05–016], [CGD09–05–017]'' (RIN1625–AA00) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2560. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation (including 4 regulations): [CGD08–05–030], [CGD07–05–044], [CGD08–05–035], [CGD08–05–036]'' (RIN1625–AA09) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2561. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Budget and Programs, received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2562. A communication from the Attorney Advisor, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Federal Railroad Administrator, received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2563. A communication from the Under Secretary and Director, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to the Practice for Handling'' (RIN0651–AB87) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2564. A communication from the Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Final Rule to Lift Trade Restrictive Measures as Recommended at the 2004 Meeting of International Commission for the Conservation of Atlantic Tuna (ICCAT)'' ((RIN0648–AT05) (I.D. No. 021105C)) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2565. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area; Closure'' (I.D. No. 051705F) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2566. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Spiny Dogfish Fishery'' (RIN0648–AS24) received on June 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2567. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Head of Contracting Activity (HCA) Change for Exploration Systems Directorate'' (48 CFR Part 1802) received on June 3, 2005; to the Committee on Commerce, Science, and Transportation.

EC–2568. A communication from the Assistant Chief, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the Ribbon Ridge Viticultural Area (2002R–215P)'' (RIN1513–AA58) received on June 8, 2005; to the Committee on the Judiciary.

EC–2569. A communication from the Acting Assistant Secretary for Policy, Planning, and Preparedness, Department of Veterans Affairs, transmitting, pursuant to law, a report relative to an inventory of commercial activities which are currently being performed by Federal employees for calendar year 2004; to the Committee on Veterans' Affairs.

EC–2570. A communication from the Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled ''To Amend Title 38, United States Code, to Provide Authority for the Secretary of Veterans Affairs to Release Individually-identified Medical Information to Assist in the Donation of Organs, Tissue, and Eyes for the Purpose of Transplantation'' received on June 8, 2005; to the Committee on Veterans' Affairs.

EC–2571. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to Greece; to the Committee on Foreign Relations.

EC–2572. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Second Biennial Report to the Congress on Evaluation, Research and Technical Assistance Activities Supported by the Promoting Safe and Stable Families Program''; to the Committee on Health, Education, Labor, and Pensions.

EC–2573. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Community Food and Nutrition Program (CFNP) for Fiscal Year 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2574. A communication from the Secretary of Education, transmitting, a report of proposed legislation entitled ''Higher Education Act Reform Amendments of 2005''; to the Committee on Health, Education, Labor, and Pensions.

EC–2575. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Legislation, received on June 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2576. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Legislation, received on June 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2577. A communication from the Director, Office of Worker's Compensation Programs, Department of Labor, transmitting pursuant to law, the report of a rule entitled ''Performance of Functions; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended 20 CFR Parts 1 and 30'' (RIN1215–AB51) received on June 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2578. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Physician Referrals to Specialty Hospitals''; to the Committee on Finance.

EC–2579. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Finalizing Medicare Regulations under Section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) for Calendar Year 2004''; to the Committee on Finance.

EC–2580. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports of the Airport and Airway Trust Fund, Aquatic Resources Trust Fund, Black Lung Disability Trust Fund, Harbor Maintenance Trust Fund, Hazardous Substance Superfund, Highway Trust Fund, Inland Waterways Trust Fund, Leaking Underground Storage Tank Trust Fund, Nuclear Waste Fund, Oil Spill Liability Trust Fund, Reforestation Trust Fund, Uranium Enrichment Decontamination and Decommissioning Fund, Vaccine Injury Compensation Trust Fund, Wool Research, Development, and Promotion Trust Fund located in the March 2005 Treasury Bulletin; to the Committee on Finance.

EC–2581. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Prevailing State Assumed Interest Rates'' (Rev. Rul. 2005–29) received on June 8, 2005; to the Committee on Finance.

EC–2582. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the

Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 146(f)—Extension of Time to Make a Carryforward Election of Unused Private Activity Bond Volume Cap'' (Rev. Proc. 2005–30) received on June 8, 2005; to the Committee on Finance.

EC–2583. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling: Premium Stabilization Reserves'' (Rev. Rul. 2005–33) received on June 8, 2005; to the Committee on Finance.

EC–2584. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 1446 Regulations (TD 9200)'' (RIN1545–AY28, 1545–BD80) received on June 8, 2005; to the Committee on Finance.

EC–2585. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2005–46) received on June 8, 2005; to the Committee on Finance.

EC–2586. A communication from the Acting Chief, Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Estate of Mitchell v. Commissioner, 250 F. 3d 696 (9th Cir. 2001). aff'g in part, rev'g in part, and remanding T.C. Memo 1997–461; on remand, T.C. Memo. 2002–98'' (AOD 2005–23) received on June 8, 2005; to the Committee on Finance.

EC–2587. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, a report that funding for the State of Connecticut as a result of the record snow on January 22–23, 2005, has exceeded $5,000,000; to the Committee on Banking Housing, and Urban Affairs.

EC–2588. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Public and Indian Housing, received on June 8, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2589. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Fair Credit Reporting Medical Information Regulations'' (RIN1557–AC85) received on June 6, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2590. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, the report of proposed legislation entitled ''Financial Transparency and Accountability Act of 2005''; to the Committee on Environment and Public Works.

EC–2591. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an informational copy of an alterations in leased space prospectus for the James L. King Federal Building in Miami FL; to the Committee on Environment and Public Works.

EC–2592. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Texas Final Authorization of Hazardous Waste Management Program Revisions'' (FRL No. 7924–1) received on June 8, 2005; to the Committee on Environment and Public Works.

EC–2593. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Routine Maintenance, Repair and Replacement (RMRR) Equipment Replacement Provision (ERP); Reconsideration'' (FRL No. 7923–3) received on June 8, 2005; to the Committee on Environment and Public Works.

EC–2594. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Test Procedures for Testing Highway and Nonroad Engines and Omnibus Technical Amendments'' (FRL No. 7922–5) received on June 8, 2005; to the Committee on Environment and Public Works.

EC–2595. A communication from the Assistant Secretary of Defense, Health Affairs, Department of Defense, transmitting, pursuant to law, a report entitled ''Expanding Access to Mental Health Counselors: Evaluation of the TRICARE Demonstration''; to the Committee on Armed Services.

EC–2596. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to the estimated costs in future fiscal years for certain military operations in and around Iraq and Afghanistan and estimated costs over an unspecified period for reconstruction, internal security, and related economic support to Iraq and Afghanistan; to the Committee on Armed Services.

EC–2597. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a list of officers authorized to wear the insignia of brigadier general; to the Committee on Armed Services.

EC–2598. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2599. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Incentive Program for Purchase of Capital Assets Manufactured in the United States'' (DFARS Case 2005–D003) received on June 8, 2005; to the Committee on Armed Services.

EC–2600. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''DoD Pilot Mentor-Protege Program'' (DFARS Case 2004–D028) received on June 8, 2005; to the Committee on Armed Services.

EC–2601. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Approval of Service Contracts and Task and Delivery Orders'' (DFARS Case 2002–D024) received on June 8, 2005; to the Committee on Armed Services.

EC–2602. A communication from the Regulatory Officer, Directives and Regulations Branch, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Special Areas; State Petitions for Inventoried Roadless Area Conservation; Roadless Area Conservation National Advisory Committee (Final Rule and Notice, 36 CFR Part 294)'' (RIN0596–AC10) received on June 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2603. A communication from the Acting Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02–01, relative to the Fort Bragg, North Carolina, Public Works Business Center, Savannah District; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources:

Special Report entitled ''History, Jurisdiction, and a Summary of Activities of the Committee on Energy and Natural Resources During the 108th Congress'' (Rept. No. 109–81).

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 1181. A bill to ensure an open and deliberate process in Congress by providing that any future legislation to establish a new exemption to section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) be stated explicitly within the text of the bill.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself and Ms. LANDRIEU):

S. 1225. A bill to expand access to affordable health care and to strengthen the health care safety net and make health care services more available in rural and underserved areas; to the Committee on Finance.

By Mr. AKAKA:

S. 1226. A bill to provide jurisdiction over Federal contractors who engage in human trafficking offenses; to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Ms. SNOWE):

S. 1227. A bill to improve quality in health care by providing incentives for adoption of modern information technology; to the Committee on Finance.

By Ms. CANTWELL:

S. 1228. A bill to amend the Higher Education Act of 1965 to modify the computation of eligibility for certain Federal Pell Grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Ms. SNOWE, Mr. JEFFORDS, Mr. LIEBERMAN, and Mr. KERRY):

S. 1229. A bill to amend the Internal Revenue Code of 1986 to extend, modify, and expand the credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS):

S. Res. 168. A resolution expressing gratitude and sincere respect for Jesse R. Nichols; considered and agreed to.

By Mr. SANTORUM (for himself and Mr. ENSIGN):

S. Res. 169. A resolution expressing the sense of the Senate with respect to free trade negotiations that could adversely impact consumers of sugar in the United States as well as United States agriculture and the broader economy of the United States; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. REID, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 170. A resolution relative to the death of J. James Exon, former United States Senator for the State of Nebraska; considered and agreed to.

ADDITIONAL COSPONSORS

S. 37

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Mr. VITTER), the Senator from Washington (Ms. CANTWELL), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. ENSIGN), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 37, supra.

S. 52

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 52, a bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

S. 54

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 54, a bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes.

S. 58

At the request of Mr. INOUYE, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 223

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 223, a bill to amend the Fair Labor Standards Act of 1938 to repeal any weakening of overtime protections and to avoid future loss of overtime protections due to inflation.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 392

At the request of Mr. LEVIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 408

At the request of Mr. DEWINE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 419

At the request of Mr. KYL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 419, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction.

S. 484

At the request of Mr. WARNER, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 558

At the request of Mr. REID, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 604

At the request of Mr. CRAIG, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 611

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 611, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on emergency Medical Services Advisory Council, and for other purposes.

S. 621

At the request of Mr. CONRAD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 621, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for the depreciation of certain leasehold improvements.

S. 623

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 623, a bill to direct the Secretary of Interior to convey certain land held in

trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

S. 627

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 705

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 705, a bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 768

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 768, a bill to provide for comprehensive identity theft prevention.

S. 776

At the request of Mr. JOHNSON, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 828

At the request of Mr. HARKIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 875

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase participation in section 401(k) plans through automatic contribution trusts, and for other purposes.

S. 911

At the request of Mr. CONRAD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 962

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 971

At the request of Mr. HATCH, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 971, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 1049

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1049, a bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1086

At the request of Mr. HATCH, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1112

At the request of Mr. GRASSLEY, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1112, supra.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1159

At the request of Mr. HATCH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1159, a bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing.

S. 1179

At the request of Mr. KENNEDY, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. CORZINE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1179, a bill to amend title XVIII of the Social Security Act to ensure that benefits under part D of such title have no impact on benefits under other Federal programs.

S. 1180

At the request of Mr. OBAMA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1180, a bill to amend title 38, United States Code, to reauthorize various programs servicing the needs of homeless veterans for fiscal years 2007 through 2011, and for other purposes.

S. 1181

At the request of Mr. CORNYN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1181, a bill to ensure an open and deliberate process in Congress by providing that any future legislation to establish a new exemption to section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) be stated explicitly within the text of the bill.

S. 1191

At the request of Mr. SALAZAR, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1197

At the request of Mr. BIDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1200

At the request of Mr. BUNNING, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1200, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain roof systems.

S. 1210

At the request of Mr. HARKIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1210, a bill to enhance the national security of the United States by providing for the research, development, demonstration, administrative support, and market mechanisms for widespread deployment and commercialization of biobased fuels and biobased products, and for other purposes.

S.J. RES. 18

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 39

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Con. Res. 39, a concurrent resolution to express the sense of Congress on the Purple Heart.

S. RES. 39

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. Res. 39, a resolution apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Res. 39, supra.

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. Res. 39, supra.

At the request of Mr. BURNS, his name was added as a cosponsor of S. Res. 39, supra.

At the request of Ms. LANDRIEU, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mrs. DOLE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from South Dakota (Mr. THUNE), the Senator from Oregon (Mr. WYDEN), the Senator from Virginia (Mr. WARNER), the Senator from Montana (Mr. BAUCUS), the Senator from Kansas (Mr. ROBERTS), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Res. 39, supra.

At the request of Mr. ALLEN, the names of the Senator from Missouri (Mr. BOND), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Georgia (Mr. ISAKSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 39, supra.

S. RES. 86

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. Res. 86, a resolution designating August 16, 2005, as ''National Airborne Day''.

S. RES. 154

At the request of Mr. BIDEN, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 154, a resolution designating October 21, 2005 as ''National Mammography Day''.

S. RES. 155

At the request of Mr. BIDEN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself and Ms. LANDRIEU):

S. 1225. A bill to expand access to affordable health care and to strengthen the health care safety net and make health care services more available in rural and underserved areas; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to join with my colleague from Louisiana, Senator LANDRIEU, in introducing the Access to Affordable Health Care Act, a comprehensive, seven-point plan that builds on the strengths of our current public programs and private health care system to make quality, affordable health care available to millions more Americans.

One of my top priorities in the Senate has been to expand access to affordable health care for all Americans. There are still far too many Americans without health insurance or with woefully inadequate coverage. As many as 45 million Americans—almost 16 percent of our population—are uninsured, and millions more are underinsured.

Health care coverage matters. The simple fact is that people with health insurance are healthier than those who are uninsured. People without health insurance are less likely to seek care when they need it, and to forgo services such as periodic check ups and preventive services. As a consequence, they are more likely to be hospitalized or require costly medical attention for conditions that could have been prevented or treated at a curable stage. Not only does this put the health of these individuals at greater risk, but it also puts additional pressure on our hospitals and emergency rooms, many of them already financially challenged.

Compared with people who have health coverage, uninsured adults are four times, and uninsured children five times, more likely to use the emergency rooms. The costs of care for these individuals are often absorbed by providers and passed on to the covered population through increased fees and insurance premiums.

Maine is in the midst of a growing health insurance crisis, with insurance premiums rising at alarming rates. Whether I am talking to a self-employed fisherman, a displaced worker, the owner of a struggling small business, or the human resource manager of a large company, the soaring costs of health insurance is a common concern.

Maine's employers are currently facing premium increases of as much as 20 percent a year. These premiums have been particularly burdensome for small businesses, the backbone of the Maine economy. Many small business owners are caught in a cost-squeeze: they know that if they pass on the premium increases to their employees, more of them will decline coverage. Yet these small businesses simply cannot afford to absorb double-digit increases in their health insurance premiums year after year.

The problem of rising costs is even more acute for individuals and families who must purchase health insurance on their own. Monthly health insurance premiums in Maine often exceed a family's mortgage payment. It is no wonder that as many as 150,000 Mainers are uninsured. Clearly, we must do more to make our health care system more efficient and health insurance more available and affordable.

The Access to Affordable Health Care Act, which we are introducing today, is a seven-point plan that combines a variety of public and private approaches to make quality health care coverage more affordable and available. The legislation's seven goals are:

No. 1. To expand access to affordable health care for small businesses;

No. 2. To make health insurance more affordable for individuals and families purchasing coverage on their own;

No. 3. To strengthen the health care safety net for those without coverage;

No. 4. To expand access to care in rural and under-served areas;

No. 5. To increase access to affordable long-term care;

No. 6. To promote healthier lifestyles;

And No. 7, to provide more equitable Medicare payments to Maine providers to reduce the Medicare shortfall, which has forced hospitals, physicians and other providers to shift costs onto other payers in the form of higher charges, which, in turn drives up health care premiums.

Let me discuss each of these seven points in more detail.

First, our legislation will help small employers cope with rising health care costs.

Since most Americans get their health insurance through the workplace, it is a common assumption that people without health insurance are unemployed. The fact is, however, that most uninsured Americans are members of families with at least one full-time worker. As many as 82 percent of Americans who do not have health insurance are in a family with a worker.

Uninsured working Americans are most often employees of small businesses. In fact, some 60 percent of uninsured workers are employed by small firms. Smaller firms generally face higher costs for health insurance than larger firms, which makes them less likely to offer coverage. Small businesses want to provide health insurance for their employees, but the cost of often just too high.

The legislation we are introducing today will help small employers cope with rising costs by providing new tax credits for small businesses to help make health insurance more affordable. It will encourage those small businesses that do not currently offer health insurance to do so and will help employers that do offer insurance to continue coverage for their employees even in the face of rising costs.

Our legislation will also help increase the clout of small businesses in

negotiating with insurers. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies, which limits their ability to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed cost of a health benefits plan. Moreover, they are not as able to spread the risks of medical claims over as many employees as large firms.

Our legislation will help address these problems by authorizing Federal grants to provide start-up funding to States to assist them with the planning, development and operation of small employer purchasing cooperatives. These cooperatives will help to reduce health care costs for small employers by allowing them to band together to purchase health insurance jointly. Group purchasing cooperatives have a number of advantages for small employers. For example, the increased number of participants in the group help to lower the premium costs for all. Moreover, they decrease the risk of adverse selection and spread the cost of health care over a broader group.

The legislation would also authorize a Small Business Administration grant program for States, local governments and non-profit organizations to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover. These grants would also be used to make employers aware of their current rights under State and Federal laws. While costs are clearly a problem, many small employers are not fully aware of laws that have already been enacted by both States and Federal Government to make health insurance more affordable. For example, in one survey, 57 percent of small employers did not know that they could deduct 100 percent of their health insurance premiums as a business expense.

The legislation would also create a new program to encourage innovation by awarding demonstration grants in up to 10 States conducting innovative coverage expansions, such as alternative group purchasing or pooling arrangements, individual or small group market reforms, or subsidies to employers or individuals purchasing coverage. The States have long been laboratories for reform, and they should be encouraged in the development of innovative programs that can serve as models for the Nation.

The Access to Affordable Health Care Act will also expand access to affordable health care for individuals and families.

One of the first bills I cosponsored as a Senator was legislation to establish the State Children's Health Insurance Program, S–CHIP, which provides insurance for the children of low-income parents who cannot afford health insurance, yet make too much money to qualify for Medicaid. This important program has provided affordable health insurance coverage to an estimated six million children nationwide, including almost 13,000 who are currently enrolled in the MaineCare program. Even so, nationwide, millions of qualified children have yet to be enrolled in this program, many because their parents simply don't know that they are eligible for the assistance.

Our legislation builds on the success of this program and gives States a number of new tools to increase participation. The bill authorizes new grants for States and non-profit organizations to conduct innovative outreach and enrollment efforts to ensure that all eligible children are covered. States would also have the option of covering the parents of the children who are enrolled in programs like MaineCare. States could also use funds provided through this program to help eligible working families pay their share of an employer-based health insurance plan. In short, the legislation will help ensure that the entire family receives the health care they need.

And finally, to help make health coverage more affordable for low- and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded public programs, our legislation would provide an advanceable, refundable tax credit of up to $1,000 for individuals earning up to $30,000 and up to $3,000 for families earning up to $60,000. This could provide coverage for up to 6 million Americans who would otherwise be uninsured for one or more months, and will help many more working lower-income families who currently purchase private health insurance with little or no government help.

The Access to Affordable Health Insurance Act will also help to strengthen our Nation's health care safety net by doubling funding over 5 years for the Consolidated Health Centers program, which includes community, migrant, public housing and homeless health centers. These centers, which operate in underserved urban and rural communities, provide critical primary care services to millions of Americans, regardless of their ability to pay. About 20 percent of the patients treated at Maine's community health centers have no insurance coverage and many more have inadequate coverage, so these centers are a critical part of our Nation's health care safety net.

The problem of access to affordable health care services is not limited to the uninsured, but is also shared by many Americans living in rural and underserved areas where there is a serious shortage of health care providers. The Access to Affordable Health Care Act therefore calls for increased funding for the National Health Service Corps, which supports doctors, dentists, and other clinicians who serve in rural and inner city areas.

The legislation will also give the program greater flexibility by allowing National Health Service Corps participants to fulfill their commitment on a part-time basis. Current law requires all National Health Service Corps participants to serve full-time. Many rural communities, however, simply do not have enough volume to support a full-time health care practitioner. Moreover, some sites may not need a particular type of provider—for example, a dentist—on a full-time basis. Some practitioners may also find part-time service more attractive, which, in turn, could improve recruitment and retention. Our bill therefore gives the program additional flexibility to meet community needs.

Long-term care is the major catastrophic health care expense faced by older Americans today, and these costs will only increase with the aging of the baby boomers. Most Americans mistakenly believe that medicare or their private health insurance policies will cover the cost of long-term care should they develop a chronic illness or cognitive impairment like Alzheimer's Disease. Unfortunately, far too many do not discover that they do not have coverage until they are confronted with the difficult decision of placing a much-loved parent or spouse in long-term care and facing the shocking realization that they will have to cover the costs themselves.

The Access to Affordable Health Care Act will provide a tax credit for long-term care expenses of up to $3,000 to provide some help to those families struggling to provide long-term care to a loved one. It will also encourage more Americans to plan for their future long-term care needs by providing a tax deduction to help them purchase long-term care insurance.

Health insurance alone is not going to ensure good health. As noted author and physician Dr. Michael Crichton has observed, ''the future of medicine lies not in treating illness, but preventing it.'' Many of our most serious health problems are directly related to unhealthy behaviors—smoking, lack of regular exercise and poor diet. These three major risk factors alone have made Maine the state with the fourth highest death rate due to four largely preventable diseases: cardiovascular disease, cancer, chronic lung disease and diabetes. These four chronic diseases are responsible for 70 percent of the health care problems in Maine.

Our bill therefore contains a number of provisions designed to promote healthy lifestyles. An ever-expanding body of evidence shows that these kinds of investments in health promotion and prevention offer returns not only in reduced health care bills, but in longer life and increased productivity. The legislation will provide grants to States to assist small businesses wishing to establish ''worksite wellness'' programs for their employees. It would also authorize a grant program to support new and existing ''community partnerships,'' such as the Healthy Community Coalition in

Maine's Franklin County, to promote healthy lifestyles among hospitals, employers, schools and community organizations. And, it would provide funds for States to establish or expand comprehensive school health education, including, for example, physical education programs that promote lifelong physical activity, healthy food service selections, and programs that promote a healthy and safe school environment.

Finally, the Access to Affordable Health Care Act would promote greater equity in Medicare payments and help to ensure that the Medicare system rewards rather than punishes States like Maine that deliver high-quality, cost-effective Medicare services to our elderly and disabled citizens.

According to a study in the Journal of the American Medical Association, Maine ranks third in the Nation when it comes to the quality of care delivered to our Medicare beneficiaries. Yet we are 11th from the bottom when it comes to per-beneficiary Medicare spending.

The fact is that Maine's Medicare dollars are being used to subsidize higher reimbursements in other parts of the country. This simply is not fair. Medicare's reimbursement systems have historically tended to favor urban areas and failed to take the special needs of rural States into account. Ironically, Maine's low payment rates are also the result of its long history of providing high-quality, cost-effective care. In the early 1980s, Maine's lower than average costs were used to justify lower payment rates. Since then, Medicare's payment policies have only served to perpetuate the gap.

The Medicare Modernization Act of 2003 did take some significant steps toward promoting greater fairness by increasing Medicare payments to rural hospitals and by modifying geographic adjustment factors that discriminated against physicians and other providers in rural areas. The legislation we are introducing today will build on those improvements by establishing State pilot programs that reward providers of high-quality, cost efficient Medicare services. It will also establish a program to expand graduate medical education programs in rural and underserved areas of the nation.

Mr. President, the Access to Affordable Health Care Act outlines a blueprint for reform based on principles upon which I believe a bipartisan majority in Congress could agree. The plan takes significant strides toward the goal of universal health care coverage by bringing millions more Americans into the insurance system, by strengthening the health care safety net, and by addressing inequities in the Medicare system.

By Mr. AKAKA:

S. 1226. A bill to provide jurisdiction over Federal contractors who engage in human trafficking offenses; to the Committee on the Judiciary.

Mr. AKAKA. Mr. President, I rise today to introduce the Federal Contractor Extraterritorial Jurisdiction for Human Trafficking Offenses Act of 2005, which builds upon bipartisan efforts to combat the abhorrent practice of human trafficking.

Human trafficking is unfortunately among the fastest growing international criminal activities. According to the U.S. State Department's 2005 Trafficking in Persons Report, 600,000 to 800,000 victims are transported across international borders each year. These victims often come from the world's most vulnerable populations and regions affected by wars or humanitarian disasters.

With the promise of well-paying jobs, victims are often enticed to foreign countries, where upon arrival, their passports or travel papers are confiscated, and they are forced, many times beaten, until they agree to work without pay or serve as prostitutes. The perpetrators of human trafficking are typically motivated by profits derived from the use of forced labor or commercial sex exploitation. Because one of the common motivations of trafficking is forced prostitution: 80 percent of the victims are women and 50 percent of the victims are children.

In 2001, awareness of human trafficking grew in London during a murder investigation where the victim was a small African boy. While trying to determine the identity of the victim, investigators discovered that, in London alone, 300 African children between the ages of 4 and 7 could not be accounted for. That staggering statistic provides an insight into the pervasiveness of child trafficking and demonstrates that it can occur in all countries, including the most affluent.

This issue has long been a concern of mine. Nearly 6 years ago, I learned of a human trafficking ring that enslaved foreign workers and smuggled them to the U.S. Commonwealth of the Northern Mariana Islands, CNMI. The workers were forced to work in factories or serve as prostitutes. Senators Frank Murkowski, Jeff Bingaman, and I introduced S. 1052 to tighten immigration law in the CNMI to prevent future human trafficking rings. Although our bill passed the Senate, it was not taken up in the House.

Unfortunately, that was only one of numerous human trafficking conspiracies discovered within the United States. The State Department estimates that 14,500 to 17,500 human trafficking victims are brought into our country every year.

We cannot address this issue without recognizing the efforts of my friend and departed colleague, Senator Paul Wellstone, who through his leadership, the Victims of Trafficking and Violence Protection Act of 2000, P.L. 106–386, was enacted. This law first established our Nation's commitment to the prosecution of traffickers and the protection of victims of trafficking.

Since 2000, and the passage of this Act, there has been a surge in government activity relating to the prevention and prosecution of human trafficking offenses. In 2003 alone, there were approximately 3,000 convictions of human traffickers worldwide.

We have learned a great deal more about the conditions under which members of a population are likely to become victims of trafficking. Those who are displaced from their homes or suffering from poverty are much more likely to become victims of trafficking. Unfortunately, military forces and organizations charged with protecting and providing for vulnerable populations have, at times, actually encouraged the trafficking of humans.

There have been instances in the Congo and in Bosnia where increased demand for prostitution and forced labor caused by foreign peacekeeping troops and humanitarian aid workers accelerated the exploitation of already vulnerable populations.

There have even been reports where contractors, working on behalf of the United States Government, have contributed to, and even participated in, the trafficking of humans abroad. Nothing is more contrary to the freedoms we cherish than the trafficking of humans, which is why I introduce today the Federal Contractor Extraterritorial Jurisdiction for Human Trafficking Offenses Act.

My bill closes a loophole in U.S. criminal law. Under current law, Federal contractors who engage in human trafficking offenses abroad are subject to prosecution in the United States only if ''employed by or accompanying the Armed Forces.'' The bill closes this loophole by permitting the prosecution of Federal contractors of ''any executive agency.''

I believe all U.S. contractors should be treated the same, and all should be held to the same standards. A paycheck from the United States should never be used to purchase a human life.

I wish to point out that this legislation respects the sovereignty of foreign governments to prosecute these crimes locally. If a prosecution has occurred or is pending by the foreign government, U.S. authorities are precluded from prosecuting except upon approval of the U.S. Attorney General.

Rather, my measure authorizes the prosecution of a U.S. contractor who engages in human trafficking abroad but flees the foreign country to avoid prosecution. This happened, according to at least one report, where an employee of a Federal contractor in Bosnia bought a woman to serve as a sex slave. This individual fled the country after local authorities discovered the crime, and he returned to the U.S. to avoid prosecution. My bill would empower U.S. prosecutors to bring such an individual to justice.

Mr. President, I ask by unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Contractor Extraterritorial Jurisdiction for Human Trafficking Offenses Act of 2005''.

SEC. 2. FEDERAL CONTRACTOR EXTRA-TERRITORIAL JURISDICTION.

Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''§ 1596. Federal contractor extraterritorial jurisdiction

''(a) Whoever, while a Federal contractor, engages in conduct outside the United States that would constitute a violation of this chapter punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

''(b) No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

''(c) An individual who is a victim of a violation of this chapter by a Federal contractor may bring a civil action against the perpetrator under section 1595 if a civil action would have been authorized under section 1595 had the conduct been engaged in within the special maritime and territorial jurisdiction of the United States.

''(d) As used in this section, the term 'Federal contractor' means a person who—

''(1) is employed as a contractor (including a subcontractor at any tier), or as an employee of a contractor (or subcontractor at any tier), of any executive agency, as that term is defined in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1));

''(2) is present or residing outside the United States in connection with such employment; and

''(3) is not a national of or ordinarily resident in the country where the violation occurred.''.

By Ms. STABENOW (for herself and Ms. SNOWE):

S. 1227. A bill to improve quality in health care by providing incentives for adoption of modern information technology; to the Committee on Finance.

Mrs. STABENOW. Mr. President, I am very pleased to introduce the ''Health Information Technology Act of 2005'' with my friend and colleague from Maine, Senator Snowe. This legislation will reduce costs for our businesses, improve systems for our providers, and improve quality of care for patients.

We know we need to reduce health care costs in this country. In 2004, United States national health expenditures, known as NHEs, amounted to $1.8 trillion, or about $6,300 per person, accounting for 15.8% of our GDP. This is almost twice the average among European Union countries.

And costs are expected to continue to skyrocket. The Center for Medicare and Medicaid Services, CMS, estimates that by 2013, NHEs in the United States will reach $3.4 trillion and account for 18.8 percent of our GDP.

It is without question that the increasing cost of employer-based health insurance hurts the global competitiveness of U.S. companies. General Motors now spends more than $1,500 per vehicle on health care costs, while their non-U.S. based competitors spend as much as $1,000 less.

Our large companies certainly aren't alone in struggling to meet the health care needs of their employees—the average member of the Small Business Association of Michigan, SBAM spends nearly $8,000 per employee per year on health insurance premiums. SBAM explains very clearly one of the reasons for these high costs: ''the way in which health care information is communicated is expensive, inefficient, and many times simply does not happen.''

The members of the Health Information Technology Leadership Panel, convened pursuant to the National Coordinator for Health Information Technology's Framework for Strategic Action, recently agreed that ''increasing health care costs pose a great and growing challenge to their industries and the broader U.S. economy..''.

But it's not just the level of health care spending—at the same time that we are spending twice as much as many other countries, 45 million of our citizens lack health insurance, and a recent national study by RAND suggests that U.S. adults receive only 55 percent of recommended care.

The answer is not to cut payments or to ask patients to take less care, but to ensure the right information is where it needs to be at the time it needs to be there so that providers can give the best possible treatment and care. That will both reduce costs and improve quality of care.

However, most of our Nation's health care providers don't have access to information technology and services because it's hard enough just to keep up with their daily costs, much less to invest in something new.

And, there's another reason providers haven't been quick to adopt these systems. The nature of our health care system means that in large part the value of these technologies—through the lower costs they will achieve—accrue to the payers of health care, rather than to the providers.

The costs of necessary information not being available are great. Too often, care is duplicated like an x-ray given twice, because an emergency room doctor didn't have the results of an earlier x-ray, or the best and most appropriate care isn't given. Our health care professionals can't possibly provide the best care if they don't have complete and accurate information about the patient sitting in front of them.

Multiple studies have found that as much as $300 billion is spent each year on health care that does not improve patient outcomes on treatment that is unnecessary, inappropriate, inefficient, or ineffective.

A March 2001 Institute of Medicine, IOM, study concluded that in order to improve quality, there must be a national commitment to building an information infrastructure. An October 2003 Government Accountability Office report found that the benefits of an electronic healthcare information system included improved quality of care, reduced costs associated with medication errors, more accurate and complete medical documentation, more accurate capture of codes and charges, and improved communication among providers enabling them to respond more quickly to patients' needs.

By providing the most appropriate care at the most appropriate time, we can reap huge savings. A January 2005 Report by the Center for Information Technology Leadership, CITL, found that moving to standardized health information exchange and interoperability would save nearly $80 billion annually in the United States.

The benefits of adoption and use of health care information technologies, systems and services will be widespread: employers will realize cost savings, clinicians will gain new electronic support tools and patient information to help guide medical decisions, and patients will benefit from a more efficient health care system and from a safer health care system with fewer unnecessary treatments and more attention to preventive care. And, taxpayers and our federal programs will benefit. Researchers have suggested that up to 30 percent of annual Medicare health care spending could be saved by eliminating unnecessary and duplicative procedures, and improving quality by eliminating errors.

The benefits of health information technologies and services become most compelling on an individual level. I met an extraordinary woman just a month ago. Renae Wallace, a small business owner in Kingsley, MI told me about her son Randall. Randall is just about to turn 8, but because he was born with complex heart and lung defects, he has seen the inside of a surgery room more times than most people see in a lifetime.

Renae takes her son to providers in Traverse City, Grand Rapids, and Ann Arbor. But because there is no way for these providers to talk to each other, she has to carry around a file two inches thick of medical records—X-rays, MRI scans, surgical notes—on Randall. Otherwise, the health care professionals who are taking care of Randall wouldn't have the benefit of the results of the treatment that Randall has gotten previously. Because they wouldn't have all the information they need, Randall might not get the most appropriate care. Renae has made sure that all of the providers taking care of her son have as much of the information as possible—but it would make a lot more sense if the doctors and hospitals and nurses were able to

have that information without Renae having to carry it around.

We need to ensure that our health care professionals have all of the relevant clinical information available to them in whatever setting a patient needs care, at the time the patient needs the care so that they can provide the best and most appropriate treatment possible. We know that adoption of health information technology can play a critical role in improving patient outcomes and at the same time greatly reduce costs. But it can't happen without the federal government playing a role.

The members of the Health Information Technology Leadership Panel concurred that without Federal leadership, neither their individual companies nor the industrial sector as a whole can achieve the breadth of HIT adoption that would be required to realize the needed transformation of health care.

The bill that Senator SNOWE and I are introducing recognizes that both Federal leadership and Federal investment are necessary and appropriate. The focus of the investment provided by the ''Health Information Technology Act of 2005'' is on improving health care for patients with heart disease, cancer, stroke, diabetes, chronic obstructive pulmonary disease, asthma, and other diseases and conditions by driving transformation of systems in physician offices and other health care settings. Our bill includes a number of funding incentive approaches intended to improve health care through adoption of information technology.

First, we create a 5-year, $4 billion competitive grant program for hospitals, physicians, skilled nursing facilities, community health centers and community mental health centers to offset investments in new technologies and information services. Importantly, the grant program is funded by a mandatory appropriation from the Medicare trust funds. This is critical to ensuring that funds will actually be available for the grant program. It also makes sense as the trust funds will see savings through lower outlays due to less duplicative and unnecessary care.

The grant program would authorize funding for the: purchase, lease, and installment of computer software and hardware and related services; upgrade of existing computer technology; purchase communications capabilities necessary for clinical data access, storage, and exchange; services associated with acquiring, implementing, operating, or optimizing the use of new or existing computer software and hardware and clinical health care informatics systems; provision of education and training for staff on information systems and technology designed to improve patient safety; and purchase, lease, subscription, integration service of clinical decision support tools that provide ongoing continuous quality improvement functions.

Second, we allow accelerated depreciation of qualified health care information system expenditures in 2005–2010.

Third, we adjust Medicare payments to providers who use HIT that improves the quality and accuracy of clinical decision-making. We begin by addressing payments for treatment of Medicare beneficiaries with heart disease, cancer, stroke, diabetes, and chronic obstructive pulmonary disease because we know these conditions consume a large portion of our Medicare resources.

We know that the Medicare program will reap the benefit of providers using health information networks. The Office of the National Coordinator for Health Information Technology said on March 2 of this year that the annual savings attributable to widespread electronic health record adoption are likely to lie between 7.5 percent–30 percent of annual health care spending.

It only makes sense to establish new payment codes to account for the costs of purchasing and using health information technology and services with patient-specific applications.

Our legislation also will make it much easier for physicians and other health care professionals to treat patients by reducing the communication barriers that currently exist. The ''Health Information Technology Act'' provides that the Secretary shall adopt data standards for interoperability between providers and links funding to the adoption of those standards.

We know that electronic health care information systems can reap huge benefits. The GAO found these systems improve quality of care, reduce costs and improve communication among providers.

But we also know that we can't expect our health care providers to make this investment alone as they struggle to meet their daily needs. Our country must have a national commitment to building an information infrastructure, and the Federal Government needs to step up to the plate and provide much-needed funds to get the ball rolling.

We could only have dreamed about clinical computerized information systems when the Medicare and Medicaid programs began. Today, we have them at our disposal. The sooner we get them into our hospitals, physician offices, nursing homes, community health centers and community mental health centers, the sooner our patients, providers, and pocketbooks will see the rewards.

I am very pleased to announce the support of the following organizations: American College of Physicians, Federation of American Hospitals, National Council for Community Behavioral Healthcare, the National Association of Children's Hospitals, American Heart Association, National Rural Health Association, National Business Coalition on Health, American Academy of Family Physicians, National Association of Community Health Centers, American Health Care Association, IBM, Health Vision, Healthcare Information and Management Systems Society, eHealth Initiative, AdvaMed, American Health Information Management Association, Verizon, Altarum, Michigan Health and Hospital Association, Automation Alley, Small Business Association of Michigan, Detroit Chamber, Michigan State Medical Society, Detroit Medical Center, Marquette General Health System, Oakwood Healthcare System, Henry Ford Health System, MPRO, Michigan's Medicare Quality Improvement Organization; Microsoft Corporation, Axolotl Corp, Delmarva Foundation, Dell Inc, DiagnosisOne, Greenway Medical Technologies, HealthInsight, Healthgate, Inland Northwest Health Services, Kyrptiq, Lumetra, Medical Review of North Carolina, Misys Healthcare Systems, National Alliance for Primary Care Informatics, Partners Healthcare System, Siemens Corporation, Philips Medical Systems, WebMD Corporation, and the Virgin Islands Medical Institute.

I am also very pleased to have the support of the AFL–CIO, Trinity Health, NextGen, The Society of Thoracic Surgeons, American Association of Homes and Services for the Aging, St. John Health, Michigan Primary Care Association, the American Health Quality Association, and Comtek and look forward to receiving their forthcoming letters.

I ask unanimous consent to have the text of the bill and additional material printed in the RECORD.

There being no objection, the material was ordered to by printed in the RECORD, as follows:

AMERICAN ACADEMY
OF FAMILY PHYSICIANS,
Washington, DC, June 9, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.
Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATORS STABENOW AND SNOWE: On behalf of It he 94,000 members of the American Academy of Family Physicians, congratulations on the introduction of the Health Information Technology Act. The AAFP strongly supports this legislation and we would be pleased to help you in your efforts to have Congress pass it.

The legislation recognizes that the main obstacles to widespread adoption of electronic health record systems are the significant up-front costs and the lack of general interoperability of many fragmented electronic systems. In the first case. the estimated costs of about $25,000 per physician to purchase an electronic health record system is a serious problem for family physicians in small practices that have very tight financial margins in which to operate. In the second case, even if the financing is available, a family physician will be reluctant to invest in health information technology that cannot communicate with a nearby lab or the specialist across town.

By helping physicians with the financing of these systems and by facilitating the development of interoperability standards, your legislation would go a long way to improving the quality and efficiency of health care delivery in this county.

Thank you for your leadership in this effort. We are committed to working with you

to secure passage of this important legislation.

Sincerely,

MICHAEL FLEMING,
Board Chair.

NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.,
Bethesda, MD, June 13, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW, On behalf of health centers all across the country and the 15 million Americans who rely on them for health care, I want to express our strong support for the ''Health Information Technology Act of 2005.'' The legislation would help to ensure that health centers have the additional resources they need to further harness the potential of information technology to improve the overall quality of health care delivered to patients in underserved communities.

Health centers recognize the value of healthcare information technology in facilitating the delivery of cost-effective, quality health care services. Indeed, through participation in the Health Resources and Services Administration's Health Disparities Collaboratives, health centers have demonstrated reductions in disparities and improved access to services through the use of electronic patient registries. However, the high cost of establishing these IT. systems throughout the entire health center is a significant barrier for centers with few financial resources.

With that in mind, NACHC applauds you for including health centers as eligible recipients of competitive grant funding and tax incentives for the design and installation of new healthcare IT systems, the upgrade of existing computer hardware and software, and training and education of health center staff. We also appreciate that your legislation would require the establishment of national healthcare IT standards that promote the interoperability of health care information across all health care settings within 2 years.

Thank you once again for introducing the ''Health Information Technology Act of 2005.'' We stand ready to work with you to advance this vital legislation in the 109th Congress.

Sincerely,

DANIEL R. HAWKINS, Jr.,
Vice-President for Federal, State, and Public Affairs.

AMERICAN HEALTH CARE ASSOCIATION,
Washington, DC, June 10, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: On behalf of the American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL), the nation's largest association representing providers of quality long term care, I am writing to acknowledge our support for the ''Health Information Technology Act of 2005.''

This legislation, which you will soon introduce, has the potential to transform health and long term care by utilizing information technology to allow for the seamless transfer of health data while guaranteeing privacy and security. By creating incentives for providers to acquire health information technology and ensuring interoperability, you are taking critically important steps to improve patient safety and quality. With provisions such as allowing accelerated depreciation of qualified health care information system expenditures, you've clearly fast tracked the potential of this legislation reaching its ultimate goals.''

Senator Stabenow, AHCA and NCAL fully support and commend you for the leadership you are providing with the introduction of the ''Health Information Technology Act of 2005.''

Sincerely,

HAL DAUB,
President & CEO.

IBM
Washington, D.C., June 9, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, D.C.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, D.C.

DEAR SENATORS SNOWE AND STABENOW: On behalf of IBM, I would like to congratulate you on the introduction of the ''Health Information Technology Act of 2005, and we support its passage.

The Act includes number of funding incentive approaches intended to stimulate healthcare improvements enabled by information technology. Most important, the Act would adjust Medicare payments to providers who participate in a health information network that improves the quality and accuracy of clinical decision-making. With so many Americans in this one program, creating rewards for quality in Medicare will have a lifesaving impact for patients throughout the country.

The Act also authorizes grants for information technology software, hardware, and services to improve quality in health care and patient safety. Eligible grantees would include hospitals, skilled nursing facilities, federally qualified health centers, physicians, and physician group practices. Funding would be authorized for the years 2006 to 2010 as part of the Medicare program as permitted within the Budget Reserve Fund enacted in the 2006 Budget Resolution.

The legislation would also reduce the communication barriers that make it difficult for physicians to treat patients. The Act provides that the Secretary shall adopt data standards for interoperability between providers and links funding to the adoption of those standards. At the same time, the Act would implement procedures for the Secretary to accept the optional submission of data derived from health care reporting requirements. The funding will allow providers to adopt technology with standards that promote the efficient exchange of data.

Finally, the Act would amend the Internal Revenue Code to permit the expensing of health care informatics systems that meet standards adopted by the Secretary of HHS.

We thank you for advancing these important Medicare-related provisions and look forward to supporting the Act's passage this Congress.

Sincerely,

CHRISTOPHER CAINE,
Vice President, Government Programs.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATORS STABENOW AND SNOWE: Healthvision, Inc. is dedicated to providing and supporting connected healthcare communities where information can be securely shared among, physicians, patients, consumers, hospitals and other interested constituents in the healthcare landscape. We congratulate you both for introducing The Health Information Technology Act. This legislation would provide grants to physicians, hospitals and skilled nursing facilities for purposes of improving patient safety and reducing medical errors.

We understand the positive role that health information technology (HIT) can play in promoting safety and the quality of care. We also are cognizant that financial barriers prevent physicians and patients from receiving and utilizing health information technology that is important to reducing medical errors and creating efficiencies in the healthcare system. The Health Information Technology Act (HIT Act) provides a solution to overcoming the barriers that prevent the use and utilization of HIT to improve healthcare. By providing incentives for providers to adopt HIT, promoting the adoption of national data and health communication standards to facilitate interoperability, leveraging federal investments in Medicare and Medicaid and creating special set asides for certain groups including rural providers and health professional shortage areas, the HIT Act provides considerable leverage to help build momentum in improving healthcare as we know it today.

Quality and safety challenges, according to the Institute of Medicine, cause an estimated 44,000 to 98,000 deaths yearly due to medical errors. Legislation to adopt HIT is essential to improving healthcare by replacing antiquated paper records with electronic patient records that can be shared across healthcare communities and among the necessary stakeholders in such communities.

The Healthcare Information Act of 2005 would be an important step toward addressing some of the quality and safety challenges identified by the Institute of Medicine. It is our belief that upfront investment in HIT will improve the quality of care, while returning savings through reductions in clinical and administrative costs over time.

We applaud your leadership and look forward to working with you to provide incentives for adoption of modern health information technology to improve the quality of healthcare.

Very truly yours,

SCOTT DECKER,
President and Chief Executive Officer.
JONATHAN TEICH,
Sr. Vice President and Chief Medical Officer.

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eHEALTH INITIATIVE,
Washington, DC, June 9, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.
Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATORS STABENOW and SNOWE: The eHealth Initiative and the eHealth Initiative Foundation, a multi-stakeholder consortium dedicated to driving improvement in the quality, safety, and efficiency of healtcare through information and information technology, congratulate you for introducing The Health Information Technology Act of 2005. This legislation would provide grants to physicians, hospitals and skilled nursing facilities for purposes of improving patient safety and reducing medical errors.

The Health Information Technology Act of 2005 recognizes the key role played by health information technology (HIT) to improve healthcare by providing incentives for providers to adopt HIT, promoting the adoption of national data and health communication standards to facilitate interoperability, leveraging federal investments in Medicare and Medicaid and creating special set asides for certain groups including rural providers and health professional shortage areas.

Legislation to encourage the adoption of health information technology to improve healthcare quality is essential, given that 90 percent of the 30 billion U.S. health transactions each year are conducted by phone, fax or mail and only 15 percent of US physicians use electronic health records. These quality and safety Challenges according to the Institute of Medicine, cause an estimated 44,000 to 98,000 deaths yearly due to medical errors.

Various studies have shown the potential of health information technology to make improvements in healthcare quality. For example, a rural community hospital prevented administration of over 1,200 wrong drugs or dosages using automatic identification technology and wireless scanners to verify both the identities of patients and their correct medications (GAO–04–224).

The Health Information Technology Act of 2005 would be an important step toward addressing some of the quality and safety challenges identified by the Institute of Medicare. It is our belief that upfront investment in HIT will improve the quality of care, while returning savings through reductions in clinical and administrative cots over time.

On behalf of the undersigned and other members of the eHealth Initiative, we salute your leadership and look forward to working with you to provide incentives for adoption of modern health information technology to improve the quality of healthcare.

Sincerely,

AdvaMed.
American College of Physicians.
American Health Information Management Association.
Altarum Institute.
Axolotl Corp.
Delmarva Foundation.
Dell Inc.
DiagnosisOne.
Federation of American Hospitals.
Healthcare Information and Management Systems Society.
Greenway Medical Technologies.
HealthInsight.
Healthgate.
Healthvision.
IBM.
Inland Northwest IHealth Services.
Kryptiq.
Lumetra.
Medical Review of North Carolina.
Microsoft Corporation.
Misys Healthcare Systems.
National Alliance for Primary Care Informatics.
National Business Coalition on Health.
Partners Healthcare System.
Siemens Corporation.
Philips Medical Systems.
WebMD Corporation.

HIMSS®

Chicago, IL, June 9, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.
Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATORS STABENOW AND SNOWE: On behalf of the Healthcare Information and Management Systems Society and our 15,000 individual and over 260 corporate members and 45 chapters nationwide, we are pleased to support the Health Information Technology Act of 2005. HIMSS members are very aware of the need for catalyst legislation to improve patient safety and cost effective healthcare in the U.S. Legislation like the Health Information Technology Act of 2005 provides the type of congressional leadership that will improve healthcare delivery for the nation.

HIMSS supports the concepts of this legislation because it represents a positive step forward in the national agenda to provide a catalyst to encourage substantial investments into information technology and management systems to improve the quality, safety, and efficiency of patient care. Through our members and the Society's advocacy outreach, we will continue to support and work for the bill's passage.

We are particularly encouraged by the provisions in the legislation to create a grant program to infuse almost $4 billion in federal funding into the provider community to encourage adoption of information systems and services, as well as the emphasis on interoperability that address the needs of providers in diverse geographic settings, including setting aside at least 20 percent for rural communities.

The HIMSS Board of Directors applauds your efforts in realizing and acting on the need for infuse federal funding into the provider community to adopt much needed information technology.

We look forward to working with you to gain additional healthcare industry support for the legislation. If we can be of any further assistance, please contact Mr. Dave Roberts, HIMSS Director of Public Policy.

Sincerely,

H. STEPHEN LIEBER,
President & CEO.
PAMELA R. WIRTH,
Chairperson of the Board, HIMSS, Vice President, Soarian Medical Solutions, Siemens Medical Systems.

VERIZON,

Washington, DC, June 13, 2005.

Senator OLYMPIA J. SNOWE,
Senator DEBBIE A. STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATORS SNOWE AND STABENOW: On behalf of Verizon, I applaud your introduction of the Health Information Technology Act of 2005. This legislation recognizes the vital role of information technology im making a difference in improving quality and reducing the cost of health care, both of which are important to Verizon, as well as the Nation. Verizon has a vital stake in seeing improvements in the health care system, as we provide health care coverage for over 800,000 employees, retirees and their dependents. We hope the health care system can benefit from the technologies that have worked so well in transforming our industry.

In particular, we appreciate your recognition of telecommunications technology and its significance in improving quality and patient safety. Verizon believes that broadband, wireless and other telecommunications services can also make a real difference in reducing barriers and improving access to quality health care. We look forward to working with you in passing this important piece of legislation to improve the health care system.

ANDREW M. MEKELBURG,
Vice President, Federal Government Relations.

ALTARUM,

Ann Arbor, MI, June 5, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: I am writing to convey to you Altarum Institute's strong support for the Health Information Technology Act, which you are about to introduce into the United States Senate.

As you well know, Altarum is now helping the state of Michigan to define, develop and deploy the Michigan Health Information Network—the underlying technical, standards and governance foundation that will ensure that promising health information technology efforts across the state are both interoperable and sustainable.

While with the MHIN we help to prepare the ''foundation'' upon which these health IT applications will rest, your bill takes a tremendous stride forward in helping healthcare providers actually make these health IT tools a part of how they do their business. We sincerely hope and trust that providers who, due to the grant programs envisioned in your bill, can begin to see their way clear to adopting health IT tools in their practices will be ready to work as part of a broader community to ensure interoperability, common standards and a governing model such as the MHIN will provide.

Your leadership in this critically important area is both timely and appreciated. We look forward to consideration and passage of the Health Information Technology Act.

Sincerely,

KENNETH R. BAKER,
President.

MICHIGAN HEALTH & HOSPITAL ASSOCIATION,

Lansing, MI, June 8, 2005.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW, The Michigan Health & Hospital Association welcomes your efforts to assist with the capital investment requirements hospitals face for health information technology. The MHA supports your pending legislation, The Health Information Technology Act of 2005, which would provide needed funding for new health IT design, purchase and collaboration, as well as recognition of these costs within the Medicare reimbursement system. This issue will continue to develop in importance for Michigan hospitals and we look forward to working with you to identify how best to provide federal assistance for technology infrastructure, while keeping patient-focused safety and quality improvement as the primary goal for all concerned.

Thank you for your continued support. I may be reached at 517/703–86009 if you would like to discuss this matter in further detail.

Sincerely,

BRIAN PETERS,
Senior Vice President, Advocacy.

Ms. SNOWE. Mr. President, today I join my colleague, Senator STABENOW of Michigan, in introducing the ''Health Information Technology Act of 2005'', which will serve to improve the quality of health care through implementation of information technology; IT, in hospitals, health centers and physician practices throughout the country. At a time when the Institute of Medicine (IOM) has reported that up to 98,000 Americans die each year due to medical errors, we cannot afford to wait. When we also consider the escalating cost of health care in this country, we must recognize that this level of growth in spending has created a crisis. Information technology is one solution, and this legislation will assert the federal government's role in providing leadership in this area and provide financial incentives to spur rapid adoption of information technology in medicine. Our legislation is necessary because as a nation we face two stark problems.

The first of these is a serious patient safety problem. The good news is that solutions exist: We have the technological ability to dramatically reduce medical errors and thus save lives. Many have heard about how drug interactions can be avoided by software systems which check a patient's prescriptions for hazards. Yet there are so many other applications which can improve health. For example, by reviewing and analyzing information, a health provider can help a patient better manage chronic diseases such as diabetes and heart disease, and avoid adverse outcomes.

Our second major problem is the escalating cost of health care. Costs are reduced when tests don't have to be repeated and data isn't delayed. In fact, a patient may obtain faster, higher quality care when, for example, multiple practitioners can review diagnostic test results right at their desktops. In an age where millions of Americans share family pictures over the internet in seconds, isn't it long past time that a physician should be able to retrieve an x-ray just as easily?

The President certainly recognizes the disparity in technology in health versus other parts of our economy. He has declared a goal for every American to have an electronic medical record within 10 years. I concur—we need this and more. In fact, once that record is in place we can do so many things better. From preventing drug interactions, to managing chronic diseases, to simply helping providers operate more efficiently. Most of us have been told at one time or another, ''we're waiting to get the test results mailed'', or ''we're still waiting for your chart''. Health care is one of the last bastions of such inefficiency.

The bad news is that high start-up costs and a lack of standards have prevented us from reaping the benefits of new technologies. I am certainly looking forward to the progress we will make with Dr. David Brailer heading the new Office of the National Coordinator for Health Information Technology at the Department of Health and Human Services. The President has made technology implementation a priority, and there is no doubt that a lack of standards has prevented IT adoption by many health care providers. One must know that a system purchased will be compatible with others, and that—no matter what may happen in the future to a vendor—the huge investment one makes in building an electronic medical record won't be lost. In other words, your system must be able to communicate with other systems, and your investment in building electronic medical records must be preserved. So when a patient moves, their electronic ''chart'' should be able to move right along with them, and their continuity of care shouldn't be interrupted.

Yet standards alone aren't enough. Today many providers are struggling to make these investments, and for those which serve beneficiaries of Medicare, Medicaid and SCHIP, it can be exceedingly difficult.

The legislation which we are introducing today will bring the solution within our reach. In the last Congress I worked with Senator BOB GRAHAM to introduce legislation which provided a grants program to give assistance to hospitals and long term care facilities to enable investment in IT. As I join today with Senator STABENOW to introduce this legislation, we have made several crucial enhancements to the previous bill. The legislation now includes both federally-qualified health centers and community mental health centers as eligible to receive IT grants. In addition, physician practices can also participate. All three are key treatment environments where both costs and errors must be addressed.

Our new legislation even provides an alternative to those for-profit providers who do not wish to apply for a grant. Under this bill, such providers will be able to expense the cost of a qualified system.

The legislation supports expenditures for a variety of expenses required to implement health care information technology. These include such components as computer hardware and software, plus installation and training costs. In addition, when installed we require that every system must meet the HHS Secretary's interoperability standards.

We know we will realize significant savings through information technology. On that there is bipartisan consensus. Yet as providers are facing even declining payment rates, they also are told they must institute changes in the way they practice, including implementing information technology. We know that much of the savings in health care IT will accrue to the patient and payer—in such aspects as fewer duplicate tests, greater efficiency, and better health management. Thus it is appropriate that the Federal Government would assist with the often prohibitive start-up costs—particularly for those who serve beneficiaries of Medicare, Medicaid and SCHIP.

I again want to stress the first goal of this legislation: To help build a safer medical-delivery system. The great successes of our health care system are largely due to our highly committed and talented health care professionals. The problem we are addressing today is not theirs, but is an endemic weakness of the system they depend upon. However, to utilize the solution, the Federal Government must step forward and provide the leadership necessary to make system changes a reality.

When the Medicare and Medicaid programs began, we could only have dreamed about computerized clinical information systems. Now, today, we have this technology at our disposal, and I strongly believe that we cannot afford to delay implementation. I hope my colleagues will join us in support of this legislation so we may soon achieve the goals of improving patient safety and reducing our escalating health care costs.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Information Technology Act of 2005''.

SEC. 2. INFORMATICS SYSTEMS GRANT PROGRAM.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program to award grants to eligible entities that have submitted applications in accordance with subsection (b) for the purpose of assisting such entities in offsetting the costs incurred after December 31, 2004, that are related to clinical health care informatics systems and services designed to improve quality in health care and patient safety.

(2) DURATION.—The authority of the Secretary to make grants under this section shall terminate on September 30, 2010.

(3) COSTS DEFINED.—For purposes of this section, the term ''costs'' shall include total expenditures incurred for—

(A) purchasing, leasing, and installing computer software and hardware, including handheld computer technologies, and related services;

(B) making improvements to existing computer software and hardware;

(C) purchasing or leasing communications capabilities necessary for clinical data access, storage, and exchange;

(D) services associated with acquiring, implementing, operating, or optimizing the use of new or existing computer software and hardware and clinical health care informatics systems;

(E) providing education and training to eligible entity staff on information systems and technology designed to improve patient safety and quality of care; and

(F) purchasing, leasing, subscribing, integrating, or servicing clinical decision support tools that—

(i) integrate patient-specific clinical data with well-established national treatment guidelines; and

(ii) provide ongoing continuous quality improvement functions that allow providers to assess improvement rates over time and against averages for similar providers.

(4) ELIGIBLE ENTITY DEFINED.—For purposes of this section, the term ''eligible entity'' means the following entities:

(A) HOSPITAL.—A hospital (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e))).

(B) CRITICAL ACCESS HOSPITAL.—A critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1))).

(C) SKILLED NURSING FACILITY.—A skilled nursing facility (as defined in section 1819(a) of such Act (42 U.S.C. 1395i–3(a))).

(D) FEDERALLY QUALIFIED HEALTH CENTER.—A Federally qualified health center (as defined in section 1861(aa)(4) of such Act (42 U.S.C. 1395x(aa)(4))).

(E) PHYSICIAN.—A physician (as defined in section 1861(r) of such Act (42 U.S.C. 1395x(r))).

(F) PHYSICIAN GROUP PRACTICE.—A physician group practice.

(G) COMMUNITY MENTAL HEALTH CENTER.—A community mental health center (as defined

in section 1861(ff)(3)(B) of such Act (42 U.S.C. 1395x(ff)(3)(B))).

(b) APPLICATION.—

(1) IN GENERAL.—An eligible entity seeking a grant under this section shall submit an application to the Secretary at such time, in such form and manner, and containing the information described in paragraph (2).

(2) INFORMATION DESCRIBED.—The information described in this paragraph is the following information:

(A) A description of—

(i) the clinical health care informatics system and services that the eligible entity intends to implement with the assistance received under this section; and

(ii) how the system will improve quality in health care and patient safety, including estimates of the impact on the health of, and the health costs associated with the treatment of, patients with heart disease, cancer, stroke, diabetes, chronic obstructive pulmonary disease, asthma, or any other disease or condition specified by the Secretary.

(B) Any additional information that the Secretary may specify.

(c) PRIORITY FOR CERTAIN ELIGIBLE ENTITIES.—In awarding grants under this section, the Secretary shall give priority—

(1) first, to eligible entities—

(A) that are exempt from tax under section 501(a) of the Internal Revenue Code of 1986; and

(B)(i) in which the total of individuals that are eligible for benefits under the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, or under the State children's health insurance program under title XXI of such Act make up a high percentage (as determined appropriate by the Secretary) of the total patient population of the entity; or

(ii) that provide services to a large number (as determined appropriate by the Secretary) of such individuals;

(2) then, to eligible entities that meet the requirement under clause (i) or (ii) of paragraph (1)(B); and

(3) then, to other eligible entities.

(d) RESERVE FUNDS FOR ENTITIES IN HEALTH PROFESSIONAL SHORTAGE AREAS OR RURAL AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that at least 20 percent of the funds available for making grants under this section to—

(A) hospitals and critical access hospitals are used for making grants to such hospitals that are located exclusively in an applicable area;

(B) skilled nursing facilities are used for making grants to such facilities that are located exclusively in an applicable area;

(C) Federally qualified health centers are used for making grants to such centers that are located exclusively in an applicable area;

(D) physicians and physician group practices are used for making grants to physicians and such practices that are located exclusively in an applicable area; and

(E) community mental health centers are used for making grants to such centers that are located exclusively in an applicable area.

(2) AVAILABILITY OF RESERVE FUNDS IF LIMITED NUMBER OF ENTITIES APPLY FOR RESERVED GRANTS.—If the Secretary estimates that the amount of funds reserved under subparagraph (A), (B), (C), (D), or (E) of paragraph (1) for the type of entity involved exceeds the maximum amount of funds permitted for such entities under subsection (e), the Secretary may reduce the amount reserved for such entities by an amount equal to such excess and use such funds for awarding grants to other eligible entities.

(3) APPLICABLE AREA DEFINED.—For purposes of paragraph (1), the term ''applicable area'' means—

(A) an area that is designated as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act;

(B) a rural area (as such term is defined for purposes of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d))); or

(C) a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)).

(e) AMOUNT OF GRANT.—

(1) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (2), the Secretary shall determine the amount of a grant awarded under this section.

(B) CONSIDERATION.—In determining the amount of a grant under this section, the Secretary shall take into account the ability to take an expense deduction for health care informatics system expenses under section 179C of the Internal Revenue Code of 1986, as added by section 5.

(2) LIMITATION.—

(A) IN GENERAL.—A grant awarded under this section may not exceed the lesser of—

(i) an amount equal to the applicable percentage of the costs incurred by the eligible entity for the project for which the entity is seeking assistance under this section; or

(ii) in the case of a grant made to—

(I) a hospital or a critical access hospital, $1,000,000;

(II) a skilled nursing facility, $200,000;

(III) a Federally qualified health center, $150,000;

(IV) a physician, $15,000;

(V) a physician group practice, an amount equal to $15,000 multiplied by the number of physicians in the practice; or

(VI) a community mental health center, $75,000.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i), the term ''applicable percentage'' means, with respect to an eligible entity for the period involved, the percentage of total revenues (excluding grants and gifts from Federal, State, local government, and private sources) for such period that consists of total revenues from the medicare program, the medicaid program, and the State children's health insurance program under titles XVIII, XIX, and XXI, respectively, of the Social Security Act.

(f) REQUIREMENTS.—

(1) COMPLIANT WITH STANDARDS.—A clinical health care informatics system funded under this section and placed in service on or after the date the standards are adopted under section 4 shall be compliant with such standards.

(2) FURNISHING THE SECRETARY WITH INFORMATION.—

(A) IN GENERAL.—An eligible entity receiving a grant under this section shall furnish the Secretary with such information as the Secretary may require to—

(i) evaluate the project for which the grant is made; and

(ii) ensure that assistance provided under the grant is expended for the purposes for which it is made.

(B) COORDINATION.—The Secretary shall ensure that the requirements for furnishing information under subparagraph (A) are coordinated with other requirements for furnishing information to the Secretary that the eligible entity is subject to.

(g) STUDIES.—The Secretary shall conduct studies to—

(1) evaluate the use of clinical health care informatics systems and services implemented with assistance under this section to measure and report quality data based on accepted clinical performance measures; and

(2) assess the impact of such systems and services on improving patient care, reducing costs, and increasing efficiencies.

(h) REPORTS.—

(1) INTERIM REPORTS.—

(A) IN GENERAL.—The Secretary shall submit, at least annually, a report to the appropriate committees of Congress on the grant program established under this section.

(B) CONTENTS.—A report submitted pursuant to subparagraph (A) shall include information on—

(i) the number of grants made;

(ii) the nature of the projects for which assistance is provided under the grant program;

(iii) the geographic distribution of grant recipients;

(iv) the impact of the projects on the health of, and the health costs associated with the treatment of, patients with heart disease, cancer, stroke, diabetes, chronic obstructive pulmonary disease, asthma, or any other disease or conditions specified by the Secretary;

(v) the results of the studies conducted under subsection (g); and

(vi) such other matters as the Secretary determines appropriate.

(2) FINAL REPORT.—Not later than 180 days after the completion of all of the projects for which assistance is provided under this section, the Secretary shall submit a final report to the appropriate committees of Congress on the grant program established under this section, together with such recommendations for legislation and administrative action as the Secretary determines appropriate.

(i) FUNDING.—

(1) HOSPITALS.—There are appropriated from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) $250,000,000, for each of the fiscal years 2006 through 2010, for the purpose of making grants under this section to eligible entities that are hospitals or critical access hospitals.

(2) SKILLED NURSING FACILITIES.—There are appropriated from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) $100,000,000, for each of the fiscal years 2006 through 2010, for the purpose of making grants under this section to eligible entities that are skilled nursing facilities.

(3) FEDERALLY QUALIFIED HEALTH CENTERS.—There are appropriated from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) $40,000,000, for each of the fiscal years 2006 through 2010, for the purpose of making grants under this section to eligible entities that are Federally qualified health centers.

(4) PHYSICIANS.—There are appropriated from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) $400,000,000, for each of the fiscal years 2006 through 2010, for the purpose of making grants under this section to eligible entities that are physicians or physician group practices.

(5) COMMUNITY MENTAL HEALTH CENTERS.—There are appropriated from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) $20,000,000, for each of the fiscal years 2006 through 2010, for the purpose of making grants under this section to eligible entities that are community mental health centers.

SEC. 3. ADJUSTMENTS TO MEDICARE PAYMENTS FOR HEALTH INFORMATION TECHNOLOGY ENABLED QUALITY SERVICES.

(a) ADJUSTMENTS.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a methodology for making adjustments in payment amounts under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) made to providers of services and suppliers who—

(1) furnish items or services for which payment is made under such title; and

(2) in the course of furnishing such items and services, use health information technology and technology services with patient-specific applications that the Secretary determines improves the quality and accuracy of clinical decision-making, compliance, health care delivery, and efficiency, such as electronic medical records, electronic prescribing, clinical decision support tools integrating well-established national treatment guidelines with continuous quality improvement functions, and computerized physician order entry with clinical decision-support capabilities.

(b) REQUIREMENTS.—The methodology established under subsection (a) shall—

(1) include the establishment of new codes, modification of existing codes, and adjustment of evaluation and management modifiers to such codes, that take into account the costs of acquiring, using, and maintaining health information technology and services with patient-specific applications;

(2) first address adjustments for payments for items and services related to the diagnosis or treatment of heart disease, cancer, stroke, diabetes, chronic obstructive pulmonary disease (COPD), and other diseases and conditions that result in high expenditures under the medicare program and for which effective health information technology exists; and

(3) take into account estimated aggregate annual savings in overall payments under such title XVIII attributable to the use of health information technology and services with patient-specific applications.

(c) DURATION.—The Secretary may reduce or eliminate adjustments made to payments pursuant to subsection (a) as payment methodologies under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are adjusted to reflect provider quality and efficiency.

(d) RULE OF CONSTRUCTION.—In making national coverage determinations under section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) with respect to maintaining health information technology and services with patient-specific applications, in determining whether the health information technology and services are reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, the Secretary shall consider whether the health information technology and services improve the health of medicare beneficiaries, including the improvement of clinical outcomes or cost-effectiveness of treatment.

(e) DEFINITIONS.—In this section:

(1) PROVIDER OF SERVICES.—The term ''provider of services'' has the meaning given that term under section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)).

(2) SUPPLIER.—The term ''supplier'' has the meaning given that term under section 1861(d) of such Act (42 U.S.C. 1395x(d)).

SEC. 4. INTEROPERABILITY.

(a) DEVELOPMENT AND ADOPTION OF STANDARDS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall provide for the development and adoption under programs administered by the Secretary of national data and communication health information technology standards that promote the efficient exchange of data between varieties of provider health information technology systems. In carrying out the preceding sentence, the Secretary may adopt existing standards consistent with standards established under subsections (b)(2)(B)(i) and (e)(4) of section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104).

(2) REQUIREMENTS.—The standards developed and adopted under paragraph (1) shall be designed to—

(A) enable health information technology to be used for the collection and use of clinically specific data;

(B) promote the interoperability of health care information across health care settings, including reporting to the Secretary and other Federal agencies; and

(C) facilitate clinical decision support through the use of health information technology.

(b) IMPLEMENTATION OF PROCEDURES FOR THE SECRETARY TO ACCEPT DATA USING STANDARDS.—

(1) DATA FROM NEW HEALTH CARE REPORTING REQUIREMENTS.—Not later than January 1, 2008, the Secretary shall implement procedures to enable the Department of Health and Human Services to accept the optional submission of data derived from health care reporting requirements established after the date of enactment of this Act using data standards adopted under this section.

(2) DATA FROM ALL REQUIREMENTS.—

(A) IN GENERAL.—Not later than January 1, 2010, the Secretary shall implement procedures to enable the Department of Health and Human Services to accept the optional submission of data derived from all health care reporting requirements using data standards adopted under this section.

(B) LIMITATION.—

(i) IN GENERAL.—On and after January 1, 2010, if an entity or individual elects to submit data to the Secretary using data standards adopted under this section, the Secretary, subject to clause (ii), may not require such entity or individual to also submit such data in an additional format.

(ii) EXCEPTION.—The Secretary may provide for an exception, not to exceed 2 years, to the limitation under clause (i) with respect to certain types of data if the Secretary determines that such an exception is appropriate.

SEC. 5. ELECTION TO EXPENSE HEALTH CARE INFORMATICS SYSTEMS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 179B the following new section:

''SEC. 179C. HEALTH CARE INFORMATICS SYSTEMS EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

''(1) IN GENERAL.—An eligible entity may elect to treat any qualified health care informatics system expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

''(2) ELECTION.—An election under paragraph (1) shall be made under rules similar to the rules of section 179(c).

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—With respect to any eligible entity, the aggregate cost which may be taken into account under subsection (a)(1) for any taxable year shall not exceed, when added to any cost taken into account under this section in any preceding taxable year, the dollar amount specified under section 2(e)(2)(A)(ii) of the Health Information Technology Act of 2005.

''(2) APPLICABLE RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (3) and (4) of subsection (b) and paragraphs (6), (7), and (8) of subsection (d) of section 179 shall apply.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED HEALTH CARE INFORMATICS SYSTEM EXPENDITURES.—

''(A) IN GENERAL.—The term 'qualified health care informatics system expenditure' means, with respect to any taxable year, any direct or indirect costs incurred and properly taken into account with respect to the purchase or installation of equipment and facilities relating to any qualified health care informatics system. Such term shall include so much of the purchase price paid by the lessor of equipment and facilities subject to a lease described in subparagraph (B)(ii) as is attributable to expenditures incurred by the lessee which would otherwise be described in the preceding sentence.

''(B) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—Qualified health care informatics system expenditures shall be taken into account under this section only with respect to equipment and facilities—

''(I) the original use of which commences with the taxpayer, and

''(II) which are placed in service after December 31, 2004, and before October 1, 2010.

''(ii) SALE-LEASEBACKS.—For purposes of clause (i), if property—

''(I) is originally placed in service after December 31, 2004, and before October 1, 2010, by any person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(C) GRANTS, ETC. EXCLUDED.—The term 'qualified health care informatics system expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(2) QUALIFIED HEALTH CARE INFORMATICS SYSTEM.—The term 'qualified health care informatics system' means a system which—

''(A) has been individually approved by the Secretary of Health and Human Services for purposes of this section,

''(B) consists of electronic health record systems and other health information technologies, and

''(C) meets the standards adopted by the Secretary of Health and Human Services under section 4 of the Health Information Technology Act of 2005 by not later than the date which is 60 days after the date of the adoption of such standards.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' has the meaning given such term by section 2(a)(4) of the Health Information Technology Act of 2005.

''(4) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

''(5) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a

character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

''Sec. 179C. Health care informatics system expenditures.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2004.

SEC. 6. SENSE OF THE SENATE.

It is the sense of the Senate that the provisions of, and amendments made by, this Act should achieve deficit neutrality over the 5-year period beginning on October 1, 2005.

By Mr. REID (for himself, Mrs. FEINSTEIN, Ms. CANTWELL, Ms. SNOWE, Mr. JEFFORDS, Mr. LIEBERMAN, and Mr. KERRY):

S. 1229. A bill to amend the Internal Revenue Code of 1986 to extend, modify, and expand the credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

Mr. REID. Faced with uncertainties in electricity energy markets, turmoil in the Middle East, the need to cut back on the fossil fuel emissions linked to global warming, air pollution that contributes to high rates of asthma and fills even our national parks with smog, the United States must diversify its energy supply by promoting the growth of renewable energy.

Since 1999, Las Vegas electricity rates have increased by 50 percent. In the same time period, natural gas prices across Nevada rose 45 percent. We need to change the energy equation. We need to diversify the nation's energy supply to reduce volatility and ensure a stable supply of electricity. We must harness the brilliance of the sun, the strength of the wind, and the heat of the Earth to provide clean renewable energy for our Nation.

Mr. President, I rise today to introduce a bill with Senators FEINSTEIN, CANTWELL, SNOWE, JEFFORDS, LIEBERMAN and KERRY that expands the existing Section 45 production tax credit for renewable energy resources to cover all renewable energy resources. Our legislation accomplishes this by ensuring that geothermal, incremental geothermal, solar, open-loop biomass, incremental hydropower, landfill gas, and animal waste to the list of renewable energy resources that would qualify for a production tax credit.

Our legislation also makes the production tax credit permanent to signal America's longterm commitment to renewable energy resources. The existing production tax credit will expire at the end of the year. Since it inception in 1992, the production tax credit has expired and been renewed three times—in 1999, 2001, and 2004. Development of wind energy has closely mirrored these renewal cycles. Clearly, the private investment necessary to develop renewable energy resources requires the business certainty afforded by a long-term extension of the production tax credit. Our bill allows for co-production credits to encourage blending of renewable energy with traditional fuels and provides a credit for renewable facilities on Native American and Native Alaskan lands.

In northern Nevada, the Pyramid Lake Paiute Tribe is working with Advanced Thermal Systems to develop geothermal resources on Indian lands that will spur economic development by creating business opportunities and jobs for tribal members.

This legislation also provides production incentives to not-for-profit public power utilities and rural electric cooperatives, which serve 25 percent of the Nation's power customers, by allowing them to transfer their credits to taxable entities. The good news is that the production tax credit for renewable energy resources really works to promote the growth of renewable energy.

In 1990, the cost of wind energy was 22.5 cents per kilowatt hour and, today, with new technology and the help of a modest production tax credit, wind is a competitive energy source at approximately 5.5 cents per kilowatt hour. In the last 5 years, wind energy has experienced a 30 percent growth rate. The production tax credit provides 1.8 cents for every kilowatt-hour of electricity produced. Similar to wind energy, this credit will allow geothermal energy, incremental hydropower, and landfill gas to immediately compete with fossil fuels, while biomass will follow closely behind. The Department of Energy estimates that we could increase our geothermal energy production almost tenfold, supplying ten percent of the energy needs of the West. As fantastic as it sounds, enough sunlight falls on 100 square miles of southern Nevada that—if covered with solar panels—could power the entire Nation.

Let's never lose sight of the fact that renewable energy resources are domestic sources of energy, and using them instead of foreign sources contributes to our energy security. Renewables provide fuel diversify and price stability. After all, the fuel—from the wind, the sun, and heat from the core of the earth—cost nothing. And they provide jobs, especially in rural areas that have been largely left out of America's recent economic growth. The production tax credit for renewable energy resources is a powerful, fast-acting stimulus to the economy. According to the Western Governors Association, the Department of Energy's Initiative to deploy 1,000 Megawatts of concentrated solar power in the Southwestern area of the United States by the year 2006 would create approximately 10,000 jobs and estimated expenditures of more than $3.7 billion over 14 years.

Nevada has already developed 200 megawatts of geothermal power, with a longer-term potential of more than 2,500 megawatts; this development will provide billions of dollars in private investment and create thousands of jobs. Our production tax credit means immediate economic development and jobs.

In the U.S. today, we get 2 percent of our electricity from renewable energy sources like wind, solar, geothermal, and biomass. But the potential for much greater supply is here. For example, Nevada could use geothermal energy to meet one-third of its electricity needs, but today this source of energy only supplies 2 percent. I am proud to say that Nevada has adopted one of the most aggressive Renewable Portfolio Standards in the Nation, requiring 15 percent of the State's electricity needs be met by renewable energy resources in 2013.

After pouring billions of dollars into oil and gas, we need to invest in a clean energy future. Fossil fuel plants pump over 11 million tons of pollutants into our air each year. Federal energy policy must promote reductions in greenhouse gas emissions. By including landfill gas in this legislation, we systematically reduce the largest single human source of methane emissions in the United States, effectively eliminating the greenhouse gas equivalent of 233 million tons of carbon dioxide.

Medical studies have revealed an alarming link between soot particles from power plants and motor vehicles and lung cancer and heart disease. The adverse health effects of power plant and vehicle emissions cost Americans billions of dollars in medical care, and our cost in human suffering is immeasurable. Simply put, the human cost of dirty air is staggering. If we factor in environmental and health effects, the real cost of energy becomes apparent, and renewable energy becomes the fuel of choice.

America's abundant and untapped renewable resources can fuel our journey into a more prosperous and safer tomorrow without compromising air and water quality. Renewable energy is a critical component of a successful, forward-looking, and secure energy policy for the 21st Century.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Renewable Energy Incentives Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a

section or other provision of the Internal Revenue Code of 1986.

SEC. 2. EXTENSION, MODIFICATION, AND EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES AND WASTE PRODUCTS.

(a) PERMANENT EXTENSION.—

(1) Paragraphs (1) and (2)(A)(i) of section 45(d) are each amended by striking '', and before January 1, 2006''.

(2) Section 45(d)(2)(A)(ii) is amended by striking ''before January 1, 2006, is originally placed in service and'' and insert ''is''.

(3) Section 45(d)(3)(A) is amended__

(A) by striking ''owned by the taxpayer'',

(B) by inserting ''owned by the taxpayer and'' in clause (i)(I) after ''is''

(C) by striking ''and before January 1, 2006'' in clause (i)(I), and

(D) by striking ''originally placed in service before January 1, 2006'' in clause (ii) and inserting ''owned by the taxpayer''.

(4) Paragraphs (4), (5), (6), and (7) of section 45(d) (relating to qualified facilities) are amended by striking ''and before January 1, 2006'' each place it appears.

(b) CREDIT RATE.—

(1) INCREASE IN CREDIT RATE.—

(A) IN GENERAL.—Section 45(a)(1) is amended by striking ''1.5 cents'' and inserting ''1.9 cents''.

(B) CONFORMING AMENDMENTS.—

(i) Section 45(b)(2) is amended by striking ''1.5 cent'' and inserting ''1.9 cent''.

(ii) Section 45(e)(2)(B) is amended by inserting ''(calendar year 2004 in the case of the 1.9 cent amount in subsection (a))'' after ''1992''.

(2) FULL CREDIT RATE FOR ALL FACILITIES PLACED IN SERVICE AFTER DATE OF ENACTMENT.—Section 45(b)(4)(A) (relating to credit rate) is amended by inserting ''and placed in service before the date of the enactment of the Renewable Energy Incentives Act'' after ''subsection (d)''.

(c) FULL CREDIT PERIOD FOR ALL FACILITIES PLACED IN SERVICE AFTER DATE OF ENACTMENT.—Section 45(b)(4)(B)(i) (relating to credit period) is amended by inserting ''and placed in service before the date of the enactment of the Renewable Energy Incentives Act'' after ''subsection (d)''

(d) EXPANSION OF QUALIFIED RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting a comma, and by adding at the end the following new subparagraphs:

''(H) incremental geothermal energy production, and

''(I) incremental hydropower production.''.

(2) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following new paragraphs:

''(8) INCREMENTAL GEOTHERMAL PRODUCTION.—

''(A) IN GENERAL.—The term 'incremental geothermal production' means for any taxable year the excess of—

''(i) the total kilowatt hours of electricity produced from an incremental geothermal facility described in subsection (d)(9), over

''(ii) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of the enactment of this paragraph after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

''(B) SPECIAL RULE.—A facility described in subsection (d)(9) which was placed in service at least 7 years before the date of the enactment of this paragraph shall commencing with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

''(9) INCREMENTAL HYDROPOWER PRODUCTION.—

''(A) IN GENERAL.—The term 'incremental hydropower production' means for any taxable year an amount equal to the percentage of total kilowatt hours of electricity produced from an incremental hydropower facility described in subsection (d)(10) attributable to efficiency improvements or additions of capacity as determined under subparagraph (B).

''(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—For purposes of subparagraph (A), incremental hydropower production for any incremental hydropower facility for any taxable year shall be determined by establishing a percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission. For purposes of the preceding sentence, the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.''.

(3) FACILITIES.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraphs:

''(9) INCREMENTAL GEOTHERMAL FACILITY.—In the case of a facility using incremental geothermal to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before the date of the enactment of this paragraph, but only to the extent of its incremental geothermal production. In the case of a qualified facility described in the preceding sentence, the 10-year period referred to in subsection (a) shall be treated as beginning not earlier than such date of enactment. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

''(10) INCREMENTAL HYDROPOWER FACILITY.—In the case of a facility using incremental hydropower to produce electricity, the term 'qualified facility' means any non-Federal hydroelectric facility owned by the taxpayer which is originally placed in service before the date of the enactment of this paragraph, but only to the extent of its incremental hydropower production. In the case of a qualified facility described in the preceding sentence, the 10-year period referred to in subsection (a) shall be treated as beginning not earlier than such date of enactment.''.

(e) CREDIT ELIGIBILITY FOR LESSEES AND OPERATORS EXTENDED TO ALL FACILITIES.—Paragraph (6) of section 45(d) is amended to read as follows:

''(6) CREDIT ELIGIBILITY FOR LESSEES AND OPERATORS.—In the case of any facility described in paragraph (1), (4), (5), (6), (7), (9), or (10), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.''.

(f) QUALIFIED FACILITIES WITH CO-PRODUCTION.—Section 45(b) (relating to limitations and adjustments) is amended by adding at the end the following:

''(5) INCREASED CREDIT FOR CO-PRODUCTION FACILITIES.—

''(A) IN GENERAL.—In the case of a qualified facility described in any paragraph of subsection (d) (other than paragraph (8)) which adds a co-production facility after the date of the enactment of this paragraph, the amount in effect under subsection (a)(1) for an eligible taxable year of a taxpayer shall (after adjustment under paragraph (2) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.

''(B) CO-PRODUCTION FACILITY.—For purposes of subparagraph (A), the term 'co-production facility' means a facility which—

''(i) enables a qualified facility to produce heat, mechanical power, chemicals, liquid fuels, or minerals from qualified energy resources in addition to electricity, and

''(ii) produces such energy on a continuous basis.

''(C) ELIGIBLE TAXABLE YEAR.—For purposes of subparagraph (A), the term 'eligible taxable year' means any taxable year in which the amount of gross receipts attributable to the co-production facility of a qualified facility are at least 10 percent of the amount of gross receipts attributable to electricity produced by such facility.''.

(g) QUALIFIED FACILITIES LOCATED WITHIN QUALIFIED INDIAN LANDS.—Section 45(b) (relating to limitations and adjustments), as amended by subsection (f), is amended by adding at the end the following:

''(6) INCREASED CREDIT FOR QUALIFIED FACILITY LOCATED WITHIN QUALIFIED INDIAN LAND.—In the case of a qualified facility described in any paragraph of subsection (d) (other than paragraphs (1), (2) and (8)) which—

''(A) is located within—

''(i) qualified Indian lands (as defined in section 7871(c)(3)), or

''(ii) lands which are held in trust by a Native Corporation (as defined in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) for Alaska Natives, and

''(B) is operated with the explicit written approval of the Indian tribal government or Native Corporation (as so defined) having jurisdiction over such lands, the amount in effect under subsection (a)(1) for a taxable year shall (after adjustment under paragraphs (2) and (5) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.''.

(h) ADDITIONAL MODIFICATIONS.—

(1) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—Section 45(e) (relating to additional definitions and special rules), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(2) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(C) by inserting ''(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Renewable Energy Incentives Act, or proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103)'' after ''project'' in clause (ii) (as so redesignated), and

(D) by striking ''**TAX-EXEMPT BONDS,**'' in the heading and inserting ''**CERTAIN**''.

(3) CREDIT ALLOWABLE AGAINST MINIMUM TAX WITHOUT LIMITATION.—Clause (ii) of section 38(c)(4)(B) (defining specified credits) is amended to read as follows:

''(ii) the credit determined under section 45 to the extent that such credit is attributable to electricity or refined coal produced at a facility which is originally placed in service after October 22, 2004.''.

(4) TREATMENT OF QUALIFIED FACILITIES NOT IN COMPLIANCE WITH POLLUTION LAWS.—Section 45(d) (relating to qualified facilities), as amended by subsection (d)(3), is amended by adding at the end the following:

''(11) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity and other energy produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 168—EXPRESSING GRATITUDE AND SINCERE RESPECT FOR JESSE R. NICHOLS

Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Whereas Jesse R. Nichols, Sr., faithfully served the United States Senate and the Committee on Finance as the Government Documents Clerk and Librarian from nineteen hundred thirty-seven through nineteen hundred seventy-one;

Whereas Jesse R. Nichols, Sr., was born on June 14, 1909, in Clarksdale, Mississippi, and was the first African American Clerk employed by the United States Senate;

Whereas he carried out his duties in exemplary fashion, bringing credit to the Committee and to Congress;

Whereas Jesse Nichols worked effectively under the guidance of Democratic and Republican Chairmen, including Pat Harrison of Mississippi, Walter F. George of Georgia, Harry Flood Byrd of Virginia, and Russell B. Long of Louisiana from the 75th Congress through the 91st Congress; and

Whereas the Committee on Finance will long remember the commitment, service, and leadership of Jesse R. Nichols, Sr., as documented in an oral history posted on the Senate Historian's website: Now, therefore, be it

Resolved, That the United States Senate expresses its deep gratitude and sincere respect for Jesse R. Nichols for his unfailing service and his dedication to the United States Senate. The Senate hereby expresses condolences to the family due to the death of Jesse R. Nichols, Sr., on February 18, 2005.

SENATE RESOLUTION 169—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO FREE TRADE NEGOTIATIONS THAT COULD ADVERSELY IMPACT CONSUMERS OF SUGAR IN THE UNITED STATES AS WELL AS UNITED STATES AGRICULTURE AND THE BROADER ECONOMY OF THE UNITED STATES

Mr. SANTORUM (for himself and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 169

Whereas the President concluded negotiations with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic to form the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR'');

Whereas the CAFTA–DR only provides the 5 Central American countries and the Dominican Republic with modest additional access to the United States sugar market that will have no impact on United States sugar producers;

Whereas United States farmers and ranchers need access to new markets to expand the agricultural sector of the United States economy;

Whereas the United States manufacturing and service sectors need access to new markets to expand the broader economy of the United States;

Whereas new market access for United States products is only possible through comprehensive free trade agreements that include all products and services;

Whereas the CAFTA–DR will help build democracy, security, and the rule of law, in addition to helping integrate the economies of the United States and countries in the region;

Whereas sugar growers are already one of the most highly protected special interests in the United States;

Whereas the provisions of the CAFTA–DR offer protection to United States sugar growers, in addition to the numerous existing mechanisms that have been designed to shield sugar growers from any competition;

Whereas the United States sugar program has caused the loss of thousands of jobs in the United States in the sugar product manufacturing and cane refining sector;

Whereas every effort has been taken by the administration and Congress to accommodate the United States sugar growers, but they continue to oppose the CAFTA–DR and any free trade agreement containing new market access for sugar; and

Whereas the United States sugar growers' intransigence in wanting to exclude sugar from all future trade agreements threatens to undermine trade opportunities for United States agriculture and the rest of the United States economy: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should negotiate and sign free trade agreements that are comprehensive in scope in order to ensure that the entire United States economy can benefit from new market opportunities provided by such agreements

SENATE RESOLUTION 170—RELATIVE TO THE DEATH OF J. JAMES EXON, FORMER UNITED STATES SENATOR FOR THE STATE OF NEBRASKA

Mr. FRIST (for himself, Mr. REID, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS,

Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 170

Whereas J. James Exon served in the United States Army Signal Corps from 1942–1945 and in the United States Army Reserve from 1945–1949;

Whereas J. James Exon served as Governor of the State of Nebraska from 1971–1979;

Whereas J. James Exon served the people of Nebraska with distinction for 18 years in the United States Senate where he was a proponent of a strong national defense and knowledgeable source on geopolitical matters;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable J. James Exon, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable J. James Exon.

AMENDMENTS SUBMITTED AND PROPOSED

SA 770. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table.

SA 771. Mr. JEFFORDS (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 772. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 773. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 774. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 770. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 131, line 20, after ''landfill gas,'' insert the following: ''livestock methane,''

SA 771. Mr. JEFFORDS (for himself, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 159, after line 23, add the following:

SEC. 211. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) DEFINITIONS.—In this section:

''(1) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) organic material from a plant that is planted for the purpose of being used to produce energy;

''(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

''(I) a forest-related resource, including—

''(aa) mill and harvesting residue;

''(bb) precommercial thinnings;

''(cc) slash; and

''(dd) brush;

''(II) agricultural resources, including—

''(aa) orchard tree crops;

''(bb) vineyards;

''(cc) grains;

''(dd) legumes;

''(ee) sugar; and

''(ff) other crop by-products or residues; or

''(III) miscellaneous waste such as—

''(aa) waste pallet;

''(bb) crate; and

''(cc) landscape or right-of-way tree trimmings;

''(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon; and

''(iv) livestock methane.

''(B) EXCLUSIONS.—The term 'biomass' shall not include—

''(i) municipal solid waste that is incinerated;

''(ii) recyclable post-consumer waste paper;

''(iii) painted, treated, or pressurized wood;

''(iv) wood contaminated with plastics or metals; or

''(v) tires.

''(2) DISTRIBUTED GENERATION.—The term 'distributed generation' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

''(3) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

''(4) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

''(5) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from

''(A) a renewable energy source; or

''(B) hydrogen that is produced from a renewable energy source.

''(6) RENEWABLE ENERGY SOURCE.—The term 'renewable energy source' means—

''(A) wind;

''(B) ocean waves;

''(C) biomass;

''(D) solar;

''(E) landfill gas;

''(F) incremental hydropower; or

''(G) geothermal.

''(7) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(b) RENEWABLE ENERGY REQUIREMENTS.—

''(1) IN GENERAL.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

''(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next two years.

''(c) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

''Calendar years:	Percentage of Renewable energy Each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20

''(d) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—To meet the requirements under subsection (b), a retail electric supplier shall submit to the Secretary either—

''(A) renewable energy credits issued to the retail electric supplier under subsection (f);

''(B) renewable energy credits obtained by purchase or exchange under subsection (g);

''(C) renewable energy credits purchased from the United States under subsection (h); or

''(D) any combination of credits under subsections (f), (g) or (h).

''(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (b) only once.

''(e) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

''(f) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—Under the program established in subsection (e), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

''(2) APPLICATION.—An application for the issuance of renewable energy credits shall indicate—

''(A) the type of renewable energy resource used to produce the electric energy;

''(B) the State in which the electric energy was produced; and

''(C) any other information the Secretary determines appropriate.

''(3) CREDIT VALUE.—Except as provided in subparagraph (4), the Secretary shall issue to an entity applying under this subsection renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this section and in each subsequent calendar year.

''(4) CREDIT VALUE FOR DISTRIBUTED GENERATION.—The Secretary shall issue 3 renewable energy credits for each kilowatt-hour of distributed generation.

''(5) VESTING.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless such owner explicitly transfers the credit.

''(6) CREDIT ELIGIBILITY.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

''(7) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type and date of generation.

''(8) SALE UNDER PURPA CONTRACT.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a–3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

''(g) SALE OR EXCHANGE OF RENEWABLE ENERGY CREDITS.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

''(h) PURCHASE FROM THE UNITED STATES.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2006, the Secretary shall adjust for inflation the price charged per credit for such calendar year.

''(i) STATE PROGRAMS.—Nothing in this section shall preclude any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

''(j) CONSUMER ALLOCATION.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (b). A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (b).

''(k) ENFORCEMENT.—A retail electric supplier that does not submit renewable energy credits as required under subsection (b) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.

''(l) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

''(3) the quantity of electricity sales of all retail electric suppliers.

''(m) VOLUNTARY PARTICIPATION.—The Secretary may issue a renewable energy credit pursuant to subsection (f) to any entity not subject to the requirements of this section only if the entity applying for such credit meets the terms and conditions of this section to the same extent as entities subject to this section.

''(n) STATE RENEWABLE ENERGY GRANT PROGRAM.—

''(1) DISTRIBUTION TO STATES.—The Secretary shall distribute amounts received from sales under subsection (h) and from amounts received under subsection (k) to States to be used for the purposes of this section.

''(2) REGIONAL EQUITY PROGRAM.—

''(A) ESTABLISHMENT OF PROGRAM.—Within 1 year from the date of enactment of this section, the Secretary shall establish a program to promote renewable energy production and use consistent with the purposes of this section.

''(B) ELIGIBILITY.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—

''(i) renewable energy research and development;

''(ii) loan guarantees to encourage construction of renewable energy facilities;

''(iii) consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems including solar hot water; or

''(iv) promoting distributed generation.

''(3) ALLOCATION PREFERENCES.—In allocating funds under the program, the Secretary shall give preference to—

''(A) States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

''(B) State grant programs most likely to stimulate or enhance innovative renewable energy technologies.''.

SA 772. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 159, after line 23, add the following:

SEC. 211. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) DEFINITIONS.—In this section:

''(1) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) organic material from a plant that is planted for the purpose of being used to produce energy;

''(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

''(I) a forest-related resource, including—

''(aa) mill and harvesting residue;

''(bb) precommercial thinnings;

''(cc) slash; and

''(dd) brush;

''(II) agricultural resources, including—

''(aa) orchard tree crops;

''(bb) vineyards;

''(cc) grains;

''(dd) legumes;

''(ee) sugar; and

''(ff) other crop by-products or residues; or

''(III) miscellaneous waste such as—

''(aa) waste pallet;

''(bb) crate; and

''(cc) landscape or right-of-way tree trimmings;

''(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon; and

''(iv) livestock methane.

''(B) EXCLUSIONS.—The term 'biomass' shall not include—

''(i) municipal solid waste that is incinerated;

''(ii) recyclable post-consumer waste paper;

''(iii) painted, treated, or pressurized wood;

''(iv) wood contaminated with plastics or metals; or

''(v) tires.

''(2) DISTRIBUTED GENERATION.—The term 'distributed generation' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

''(3) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

''(4) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

''(5) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from

''(A) a renewable energy source; or

''(B) hydrogen that is produced from a renewable energy source.

''(6) RENEWABLE ENERGY SOURCE.—The term 'renewable energy source' means—

''(A) wind;

''(B) ocean waves;

''(C) biomass;

''(D) solar;

''(E) landfill gas;

''(F) incremental hydropower; or

''(G) geothermal.

''(7) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(b) RENEWABLE ENERGY REQUIREMENTS.—

''(1) IN GENERAL.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

''(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next two years.

''(c) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

''Calendar years:	Percentage of Renewable energy Each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20

''(d) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—To meet the requirements under subsection (b), a retail electric supplier shall submit to the Secretary either—

''(A) renewable energy credits issued to the retail electric supplier under subsection (f);

''(B) renewable energy credits obtained by purchase or exchange under subsection (g);

''(C) renewable energy credits purchased from the United States under subsection (h); or

''(D) any combination of credits under subsections (f), (g) or (h).

''(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (b) only once.

''(e) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

''(f) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—Under the program established in subsection (e), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

''(2) APPLICATION.—An application for the issuance of renewable energy credits shall indicate—

''(A) the type of renewable energy resource used to produce the electric energy;

''(B) the State in which the electric energy was produced; and

''(C) any other information the Secretary determines appropriate.

''(3) CREDIT VALUE.—Except as provided in subparagraph (4), the Secretary shall issue to an entity applying under this subsection renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this section and in each subsequent calendar year.

''(4) CREDIT VALUE FOR DISTRIBUTED GENERATION.—The Secretary shall issue 3 renewable energy credits for each kilowatt-hour of distributed generation.

''(5) VESTING.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless such owner explicitly transfers the credit.

''(6) CREDIT ELIGIBILITY.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

''(7) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type and date of generation.

''(8) SALE UNDER PURPA CONTRACT.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a–3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

''(g) SALE OR EXCHANGE OF RENEWABLE ENERGY CREDITS.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

''(h) PURCHASE FROM THE UNITED STATES.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2006, the Secretary shall adjust for inflation the price charged per credit for such calendar year.

''(i) STATE PROGRAMS.—Nothing in this section shall preclude any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

''(j) CONSUMER ALLOCATION.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (b). A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (b).

''(k) ENFORCEMENT.—A retail electric supplier that does not submit renewable energy credits as required under subsection (b) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.

''(l) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

''(3) the quantity of electricity sales of all retail electric suppliers.

''(m) VOLUNTARY PARTICIPATION.—The Secretary may issue a renewable energy credit pursuant to subsection (f) to any entity not subject to the requirements of this section only if the entity applying for such credit meets the terms and conditions of this section to the same extent as entities subject to this section.

''(n) STATE RENEWABLE ENERGY GRANT PROGRAM.—

''(1) DISTRIBUTION TO STATES.—The Secretary shall distribute amounts received from sales under subsection (h) and from amounts received under subsection (k) to States to be used for the purposes of this section.

''(2) REGIONAL EQUITY PROGRAM.—

''(A) ESTABLISHMENT OF PROGRAM.—Within 1 year from the date of enactment of this section, the Secretary shall establish a program to promote renewable energy production and use consistent with the purposes of this section.

''(B) ELIGIBILITY.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—

''(i) renewable energy research and development;

''(ii) loan guarantees to encourage construction of renewable energy facilities;

''(iii) consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems including solar hot water; or

''(iv) promoting distributed generation.

''(3) ALLOCATION PREFERENCES.—In allocating funds under the program, the Secretary shall give preference to—

''(A) States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

''(B) State grant programs most likely to stimulate or enhance innovative renewable energy technologies.''.

SA 773. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

At the appropriate point, insert the following:

SEC. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) RENEWABLE ENERGY REQUIREMENT.—

''(1) IN GENERAL.—Each electric utility that sells electricity to electric consumers shall obtain a percentage of the base amount of electricity it sells to electric consumers in any calendar year from new renewable energy or existing renewable energy. The percentage obtained in a calendar year shall not be less than the amount specified in the following table:

''Calendar year	**Minimum annual percentage**
2008 through 2011	2.5
2012 through 2015	5.0
2016 through 2019	7.5
2020 through 2030	10.0

''(2) MEANS OF COMPLIANCE.—An electric utility shall meet the requirements of paragraph (1) by—

''(A) generating electric energy using new renewable energy or existing renewable energy;

''(B) purchasing electric energy generated by new renewable energy or existing renewable energy;

''(C) purchasing renewable energy credits issued under subsection (b); or

''(D) a combination of the foregoing.

''(b) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

''(1) Not later than January 1, 2005, the Secretary shall establish a renewable energy credit trading program to permit an electric utility that does not generate or purchase enough electric energy from renewable energy to meet its obligations under subsection (a)(1) to satisfy such requirements by purchasing sufficient renewable energy credits.

''(2) As part of such program the Secretary shall—

''(A) issue renewable energy credits to generators of electric energy from new renewable energy;

''(B) sell renewable energy credits to electric utilities at the rate of 1.5 cents per kilowatt-hour (as adjusted for inflation under subsection (g));

''(C) ensure that a kilowatt hour, including the associated renewable energy credit, shall be used only once for purposes of compliance with this section.;

''(D) allow double credits for generation from facilities on Indian Lands, and triple credits for generation from small renewable distributed generators, i.e., those no larger than one megawatt.

''(3) Credits under paragraph (2)(A) may only be used for compliance with this section for 3 years from the date issued.

''(c) ENFORCEMENT.—

''(1) CIVIL PENALTIES.—Any electric utility that fails to meet the renewable energy requirements of subsection (a) shall be subject to a civil penalty.

''(2) AMOUNT OF PENALTY.—The amount of the civil penalty shall be determined by multiplying the number of kilowatt-hours of electric energy sold to electric consumers in violation of subsection (a) by the greater of 1.5 cents (adjusted for inflation under subsection (g)) or 200 percent of the average market value of renewable energy credits during the year in which the violation occurred.

''(3) MITIGATION OR WAIVER.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility was unable to comply with subsection (a) for reasons outside of the reasonable control of the utility.

''(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

''(d) STATE RENEWABLE ENERGY ACCOUNT PROGRAM.—

''(1) The Secretary shall establish, not later than December 31, 2008, State renewable energy account program.

''(2) All money collected by the Secretary from the sale of renewable energy credits and the assessment of civil penalties under this section shall be deposited into the renewable energy account established pursuant to this subsection. The State renewable energy account shall be held by the Secretary and shall not be transferred to the Treasury Department.

''(3) Proceeds deposited in the State renewable energy account shall be used by the Secretary, subject to appropriations, for a program to provide grants to the State agency respopsible for developing State energy conservation plans under section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322) for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the uselof electricity at customer sites such as solar water heating.

''(4) The Secretary may issue guidelines and criteria for grants awarded under this subsection. State energy offices receiving grants under this section shall maintain such records and evidence of compliance as the Secretary may require.

''(5) In allocating funds under this program, the Secretary shall give preference to States, in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and to State programs to stimulate or enhance innovative renewable energy technologies.

''(e) RULES.—The Secretary shall issue rules implementing this section not later than one year after the date of enactment of this section.

''(f) EXEMPTIONS.—This section shall not apply in any calendar year to an electric utility.

''(1) that sold less than 4,000,000 megawatt-hours of electric energy to electric consumers during the preceding calendar year; or

''(2) in Hawaii.

''(g) INFLATION ADJUSTMENT.—Not later than December 31 of each year beginning in 2008, the Secretary shall adjust for inflation the price of a renewable energy credit under subsection (b)(2)(B) and the amount of the civil penalty per kilowatt-hour under subsection (c)(2).

''(h) STATE PROGRAMS.—Nothing in this section shall diminish any authority of a State or political subdivision thereof to adopt or enforce any law or regulation respecting renewable energy, but no such law or regulation shall relieve any person of any requirement otherwise applicable under this section. The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

''(i) DEFINITIONS.—For purposes of this section:

''(1) The term 'base amount of electricity' means the total amount of electricity sold by an electric utility to electric consumers in a calendar year, excluding—

''(A) electricity generated by a hydroelectric facility (except incremental hydropower); and

''(B) electricity generated through the incineration of municipal solid waste.

''(2) The term 'existing renewable energy' means, except as provided in paragraph (3)(B), electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section from solar, wind, ocean, current, wave, tidal or geothermal energy; biomass (as defined in section 504(b)); or landfill gas.

''(3) The term 'new renewable energy' means—

''(A) electric energy generated at a facility (including a distributed generation facility) placed in service on or after the date of enactment of this section from solar, wind, ocean, current, wave, tidal or geothermal energy; biomass (as defined in section 504(b)); ladfill gas; or incremental hydropower; and

''(B) for electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section—

''(i) the additional energy above the average generation in the 3 years preceding the date of enactment of this section at the facility from solar, wind, or ocean energy; biomass (as defined in section 504(b)); landfill gas or incremental hydropower.

''(ii) the incremental geothermal production.

''(4) The term 'distributed generation facility' means a facility at a customer site.

''(5) The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions made on or after the date of enactment of this section or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date. The term does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions. Efficiency improvements and capacity additions shall be measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission.

''(6) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

''(7) INCREMENTAL GEOTHERMAL PRODUCTION.—

''(A) IN GENERAL.—The term 'incremental geothermal production' means for any year the excess of—

(i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy, over

''(ii) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of enactment of this section after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

''(B) SPECIAL RULE.—A facility described in subparagraph (A) which was placed in service at least 7 years before the date of enactment of this section commencing with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

''(j) SUNSET.—This section expires on December 31, 2030.''.

SA 774. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 159, after line 23, add the following:

SEC. _____. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended in title VI by adding at the end the following:

''SEC. 609. RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'eligible grantee' means a local government or municipality, peoples' utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

''(2) The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

''(3) The term 'renewable energy' means electricity generated from—

''(A) a renewable energy source; or

''(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

''(4) The term 'renewable energy source' means—

''(A) wind;

''(B) ocean waves;

''(C) biomass;

''(D) solar

''(E) landfill gas;

''(F) incremental hydropower;

''(G) livestock methane; or

''(H) geothermal energy.

''(5) The term 'rural area' means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

''(b) GRANTS.—The Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

''(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas,; or

''(2) providing or modernizing electric generation facilities that serve rural areas.

''(c) GRANT ADMINISTRATION.—(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective use of the funds to achieve the purposes described in subsection (b).

''(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b).

''(3) In making grants for the purposes described in subsection (b)(2), the Secretary shall give preference to renewable energy facilities.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2012.''.

NOTICE OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the hearing originally scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources for Tuesday, June 14th 2005, at 10 a.m. has been postponed and will be rescheduled for a later date.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday,

June 21, 2005, at 10 a.m., to examine the issue of voter verification the federal elections process.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

PRIVILEGE OF THE FLOOR

Mr. HAGEL. Mr. President, I ask unanimous consent that Mark Hegerle, a staff member with Senator TALENT, be granted floor privileges during the consideration of the Energy bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RELATIVE TO THE DEATH OF FORMER SENATOR J. JAMES EXON

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 170, which was submitted early today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 170) relative to the death of J. James Exon, former United States Senator for the State of Nebraska.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. Mr. President, on Friday, Nebraska lost one of the most dominant political figures in our State's history. Former two-term Governor and three-term U.S. Senator Jim Exon passed away in Lincoln at the age of 83.

Many in this Chamber today served with him and knew him well. Those who served with Jim Exon remember a serious and dedicated public servant who enjoyed life and loved his State.

Jim's voice was strong, and he spoke clearly and directly. No one ever had to guess where Jim Exon stood. As a Governor and a Senator, he fought for balanced budgets and restrained Government spending.

In the Senate, from his seat on the Armed Services Committee, he was a passionate advocate for a strong national defense. As a member of the Commerce Committee, he was a protector of our natural resources, and he had the foresight to author the Communications Decency Act.

Mr. President, today, when politics is too often a race to the lowest political common denominator, Jim Exon was a very effective leader, a partisan leader who always played it straight. He never lost an election. He won five statewide elections in Nebraska, more than any other Nebraskan. Under Jim Exon's leadership, the Democratic Party became the dominant party in Nebraska for 25 years.

Anyone who knows Nebraska understands what a remarkable accomplishment that was. He did it by listening to the people. He did it by being a leader.

I was Jim Exon's replacement in the Senate in 1996. Over the last 9 years, I came to know him well and respect his judgment. We did not always agree, but I always appreciated the opportunities I had to visit with Senator Exon on a wide range of issues. A child of the plains and a veteran of World War II, he is part of a generation of Americans who understood leadership, sacrifice, and war. In his later years, Jim Exon had much to say. And I had an opportunity to listen.

The voice and wisdom of Jim Exon and his generation is slipping away from us at a time of unparalleled change in our world. Just as with Jim Exon, while this great generation is still with us, we need to listen closely to them. I did listen to Jim Exon.

As a small businessman, two-term Governor and three-term Senator, James Exon, along with his wife Pat, served his State, his Nation, and this institution with distinction. He will be missed by the Nebraskans he served so well and loved so much.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 170) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 170

Whereas J. James Exon served in the United States Army Signal Corps from 1942–1945 and in the United States Army Reserve from 1945–1949;

Whereas J. James Exon served as Governor of the State of Nebraska from 1971–1979;

Whereas J. James Exon served the people of Nebraska with distinction for 18 years in the United States Senate where he was a proponent of a strong national defense and knowledgeable source on geopolitical matters;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable J. James Exon, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable J. James Exon.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Calendar No. 150, the nomination of Brian Montgomery to be an Assistant Secretary of Housing and Urban Development. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Brian D. Montgomery, of Texas, to be an Assistant Secretary of Housing and Urban Development.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR TUESDAY, JUNE 14, 2005

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, June 14; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that the Senate then return to executive session and resume consideration of the nomination of Thomas Griffith to be a U.S. circuit judge for the DC Circuit; provided that at 10 a.m., the Senate proceed to vote on the confirmation as provided under the previous order.

I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the Democratic Party luncheon.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. Mr. President, tomorrow the Senate will resume consideration of the nomination of Thomas Griffith to be a circuit judge for the DC Circuit. At 10 a.m., the Senate will proceed to a vote on his confirmation. That will be the first vote of tomorrow's session. Following the confirmation vote, the Senate will begin consideration of the Energy bill. This bill was reported out of committee with strong bipartisan support. It is our hope that we can move this legislation forward in a timely manner. We will begin the amending process tomorrow and votes in relation to amendments are possible throughout the day tomorrow. At this time, I encourage those Senators who have amendments to contact the bill's managers so that they can establish an orderly schedule for their consideration.

ADJOURNMENT UNTIL 9:45 a.m. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, as a mark of further respect for former Senator James Exon.

There being no objection, the Senate, at 8:19 p.m., adjourned until Tuesday, June 14, 2005, at 9:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate: Monday, June 13, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BRIAN D. MONTGOMERY, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.